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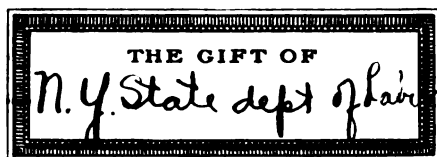
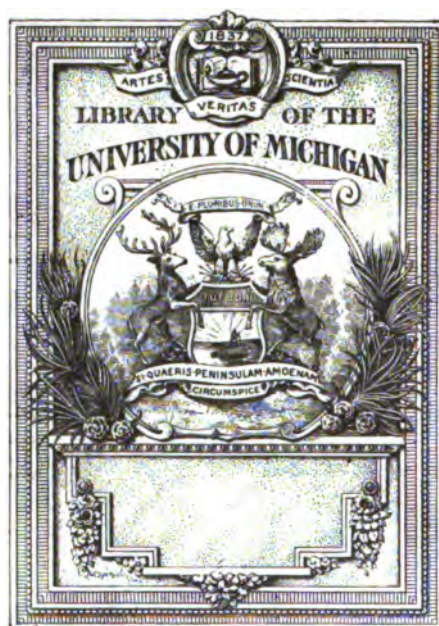
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NEW YORK STATE DEPARTMENT OF LABOR

FOURTEENTH ANNUAL REPORT

OF THE

COMMISSIONER OF LABOR

FOR THE TWELVE MONTHS ENDED SEPTEMBER 30,

1914

TRANSMITTED TO THE LEGISLATURE APRIL 5, 1915



ALBANY
STATE DEPARTMENT OF LABOR
1915

ALBANY
J. B. LYON COMPANY, PRINTERS
1915

STATE OF NEW YORK

No. 49

IN ASSEMBLY

APRIL 5, 1915

FOURTEENTH ANNUAL REPORT

OF THE

COMMISSIONER OF LABOR

STATE OF NEW YORK

DEPARTMENT OF LABOR

ALBANY, April 5, 1915

To the Legislature:

Pursuant to law, the annual report of the Commissioner of Labor for the year ended September 30, 1914, is herewith submitted.

Respectfully,

JAMES M. LYNCH,

Commissioner.

CONTENTS

	PAGE
Letter of transmittal.....	3

PART I

REPORT OF THE COMMISSIONER

Introductory	9
The Cost of the Department.....	9
Increase of Duties.....	11
Growth Not Haphazard or Arbitrary.....	12
The Reorganized Department.....	13
The Method of Labor Legislation.....	15
A Time for Patience in Labor Legislation.....	17
Work of Commissioner of Labor on Workmen's Compensation Commission	18

PART II

FINANCIAL REPORT OF THE DEPARTMENT

(1) Appropriations and Expenditures.....	21
(2) Organization, Personnel, and Individual Salary and Expense Accounts	23

PART III

REPORT OF THE INDUSTRIAL BOARD

Powers of Industrial Board.....	39
Policy	39
Committee Membership	40
Statement Relating to Committee Work.....	44
Expenses of Committee Members.....	48
Plea for Appropriations to Continue the Work.....	50
Meetings and Hearings.....	51
Industrial Code	52

PART IV

REPORT OF THE BUREAU OF INSPECTION

(1) Report of Division of Factory Inspection.....	55
(A) Report of Chief Factory Inspector, First District.....	55
(B) Report of Chief Factory Inspector, Second District.....	56
(C) Statistical Tables	65
(2) Report of Division of Homework Inspection	77
(3) Report of Division of Mercantile Inspection	85
(4) Report of Division of Industrial Hygiene	100
(A) Report of the Director	100
(B) Report of the Chemical Engineer	116
(C) Report of the Tunnel Inspectors	119
(D) Report of the Civil Engineer	123
(E) Report of the Fire Prevention Engineer.....	126

	PAGE
(5) Report of the Mine Inspector	128
(6) Special Report on Canneries, and on Day of Rest Law	132
A. The Labor Law in Canneries	132
B. The Day of Rest Law	165

PART V

REPORT OF THE BUREAU OF MEDIATION AND ARBITRATION

(1) Report of Chief Mediator	179
(2) Report of Interventions	187
(3) Statistics of Strikes and Lockouts	217
(4) Strike of Glove Cutters in Fulton County	228

PART VI

REPORT OF THE BUREAU OF INDUSTRIES AND IMMIGRATION

General Survey	243
Overcharges on Railroad Tickets	244
Money Exchange	248
Baggage	248
Illegal Revenue	250
Real Estate Schemes	251
Hotels	254
Confidence Men	255
General Co-operation of Public Departments	257
Bogus Medical "Institutes" in New York	258
Condition, Welfare and Industrial Opportunities of Aliens	263
Labor Camps	265
State Camp Schools	275
Classes for Aliens in New York City	276
Unemployment	277
Dependent and Deportable Aliens	278
Accidents	282
Employment Agencies	282
Immigrant Lodging Houses	286
Immigrant Homes	286
Complaints	287
Inspections	288
Alien Colonies	291
Work in Buffalo	292

PART VII

LABOR LAWS OF NEW YORK STATE	*1
<i>(See table of contents on p. *3 and index on p. *325.)</i>	

PART VIII

OPINIONS OF ATTORNEY-GENERAL CONCERNING LABOR LAWS	*303
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Part I

REPORT OF THE COMMISSIONER OF LABOR

[7]

REPORT OF THE COMMISSIONER OF LABOR

To the Legislature:

Section 46 of the Labor Law provides that "The Commissioner of Labor shall report annually to the legislature and shall include in his annual report or make separately in each year a report of the operation of each bureau in the department."

It seems to be the clear intent of this section that it is the *operation* of the Department concerning which especially it is the duty of the Commissioner annually to inform the Legislature. While, therefore, a year ago it seemed appropriate, in view of the fact that the present Commissioner of Labor had but just entered office, to discuss the future of the reorganized Department of Labor, it is the purpose here to note the developments of the fiscal year ended September 30, 1914.

There is neither space nor need that the work of the different bureaus or divisions of the Department should be reviewed fully or in detail by the Commissioner in his personal report. Such information may better be supplied by the individual reports of the several Bureaus which will be printed as appendices to this report, leaving for treatment here some of the larger and more general aspects of the Department work as a whole.

THE COST OF THE DEPARTMENT

Surveying the Department as a whole, perhaps the most striking fact for the year 1914 is an increase in expenditures of 56 per cent as compared with the year before, or in round numbers from \$395,000 to \$614,000. This large increase was distributed among the principal items of expenditures as follows:

COMPARISON OF EXPENDITURES OF DEPARTMENT OF LABOR IN 1913 AND 1914

ITEM	TOTAL EXPENDITURES		
	1913	1914	Increase
Salaries	\$288,661 67	\$452,840 14	\$169,178 47
Travelling expenses	60,514 18	76,857 22	16,343 04
Printing	10,946 88	28,857 73	17,410 85
Office and general expenses	39,613 60	56,015 56	16,401 96
Total	<u>\$394,736 33</u>	<u>\$614,070 65</u>	<u>\$219,334 32</u>

It will be seen that the bulk of the increase was in the item of salaries, which is naturally the principal form of expenditures in such a Department. The explanation of this growth in salary account is to be found in a large increase in personnel of the Department from 196 on September 30, 1913, to 329 on September 30, 1914. That is, there was an increase of 68 per cent in the number of persons employed in the Department. In the following table is a comparison of the personnel in the two years which shows the distribution of the increase in the general classes of attaches, in connection with which is given, in order to make still more clear the relation between growth in personnel and increase in salary expenditures, the total salary list for the attaches as it was at the end of each year.*

COMPARISON OF PERSONNEL AND SALARY LIST OF DEPARTMENT OF LABOR ON SEPTEMBER 30, 1913 AND 1914

CLASS OF ATTACHES	TOTAL NUMBER			TOTAL SALARY LIST		
	1913	1914	Increase	1913	1914	Increase
Executive and supervisory.....	26	33	7	\$85,000	\$110,500	\$25,500
Technical	5	9	4	11,600	24,500	12,900
Investigating	28	40	12	43,400	68,200	24,800
Inspecting	88	149	61	118,000	201,100	83,100
Clerical, etc.	49	98	49	51,160	103,080	51,920
Total	196	329	133	\$309,160	\$507,380	\$198,220

It thus appears that the increased expenditures of 1914 were the accompaniment of a greatly enlarged Department. Various interpretations of this outstanding feature of 1914 in the history of the Department are possible. But what is the real significance of this great enlargement? When the real purpose of the Department's work is considered this growth can scarcely be interpreted as other than an evidence of progress and a source of distinction for the Empire State. Rightly considered, the Department's work is the conservation of the health, safety and well being of wage earners, not as a partisan or class favor, but as a matter either of justice to those who are unable under modern social and industrial conditions adequately to safeguard such well being themselves, or as a sound part of the high function of government to promote the general welfare. Taken, therefore, as a measure of government

* This is not to be confused with the total of actual salaries paid during the year as given in the preceding table. The figures here refer only to the single date at the end of the year.

concern for social justice and promotion of public welfare, the year 1914 for the field represented by this Department of the State government presents a new high water mark for this state.

INCREASE OF DUTIES

Those familiar with the facts do not need to be told that back of the greater expenditures of 1914 was a far greater burden of duties and work laid upon the Department by laws enacted in the previous year. But to insure correct understanding of the former fact the latter needs to be emphasized. In last year's report were outlined certain new duties of large import which had just been laid upon the Department. Foremost among these were legislative functions to be exercised by the new Industrial Board, constructive investigation work by the new Division of Industrial Hygiene in the field of health and safety, and larger educational work in general. In addition to this, a great increase of duties in the field of inspection work was a conspicuous feature of the year. This resulted chiefly from the general revision in 1913 of the requirements of law relative to health and safety in factories, particularly with relation to structural conditions for fire protection, and an extension of mercantile inspection, theretofore confined to cities of the first class, to cities of the second class. So far as the former is concerned no new geographical territory was put under the Department's jurisdiction, but much more numerous and far more difficult regulations had to be applied to the existing territory, while in the case of mercantile inspection six cities were added to the Department's territory. As reflecting the larger duties thus imposed may be cited the fact that factory inspectors' orders with reference to health and safety during 1914 numbered 245,432 as against 75,729 in 1912,* and inspections and investigations in mercantile establishments increased from 17,589 in 1913 to 49,601 in 1914.

New duties in new fields and heavier duties in old characterized the Department's work in 1914 and constitute the background against which the larger expenditure of money in 1914 must be viewed.

* Orders were not compiled for 1913, but comparison with that year, were the figures available, would show a similar result.

GROWTH NOT HAPHAZARD OR ARBITRARY

One further point in connection with the large developments of 1914 needs to be pointed out, if it is to be fully understood. If it seem that much attention is here given to this one subject it is not amiss to note that (aside from the genuine prominence of the fact itself in the year's record) at the date when this report is written the matter has become so much a subject of criticism that it becomes little less than the duty of the Commissioner of Labor to insure, if possible, a correct understanding of the whole matter.

The point here emphasized is that it is wholly incorrect to credit the development of 1914 to haphazard or groundless considerations. On the contrary it was deliberately authorized and directed by the Legislature following extensive and thorough investigation by legislative commissions, such investigation being only a response to awakened public opinion. To get the entire historical background, it is necessary to go further back than 1913. The Wainwright Commission on Employers' Liability, which went extensively into the subject of prevention of accidents, reported almost at the outset in 1910 that the inspection force of the Department was "obviously insufficient," and after investigation declared in 1911 that the force for inspection to prevent accidents was "pitifully insufficient to cope with the work prescribed for it under the law," and recommended an "increase in the number of factory inspectors in the Labor Department, particularly in the higher and better paid grades." And that Commission also recommended as another part of its program for improvement that there should be in the Department power "to make rules to standardize the work of factory inspection and accident inspection," which is essentially the purpose of the Industrial Board created in 1913.

The movement to enlarge the resources and powers thus begun in 1910 was taken up and carried forward on a larger scale and with broader scope by the Factory Investigating Commission with two years of research resulting in the comprehensive overhauling of health and safety laws and reorganization of the Department in 1913, all of which is recent history.

Still further, note that neither in 1911 nor in 1913 was the

State of New York following a strange or arbitrary course. On the contrary, it was simply awaking in company with the country at large, to the inadequacy of laws and resources for such purposes dictated by the ideas of a generation ago, and joining in the general movement for industrial health and safety which has so notably characterized very recent years. It is indeed true that in 1911 New York public sentiment was rudely shocked into sensibility on the subject by a New York factory fire catastrophe which cost the lives of 146 employees. But while that shock gave impetus to the movement and served to emphasize certain aspects of the problem, it requires but a glance at recent experience in other states to reveal the general nature of the movement.

THE REORGANIZED DEPARTMENT

During 1914 the reorganization of the Department along the lines laid down by the Laws of 1913 was completed. The result in outline is pictured in the chart on the following page. Each of the bureaus and divisions indicated is specifically provided for by the Labor Law in the sections noted except the Division of Appeals and the Subdivision of Engineering in the Bureau of Inspection, and the Administrative Division, which have been established under the general power to create bureaus and divisions in addition to those specified by law in sections 42 and 53.

Two of these specially created divisions are of more than ordinary significance as reflecting two of the most important general developments in inspection work during the year. Both these developments grew out of the more extensive and detailed regulations relating to factories, especially with relation to structural conditions, enacted in 1913. These new and important requirements, notwithstanding the fact that they were the product of extensive investigation and study, were found when applied generally, to involve not a few difficulties in the way of interpretation and practical application, due to widely varying conditions in different localities and establishments, in addition to which many of them entailed considerable expense for employers. The result was a large increase in questions raised concerning, or appeals filed against, orders issued by inspectors. The Department could not but realize the difficulties of the situation for all con-

ORGANIZATION OF NEW YORK STATE DEPARTMENT OF LABOR

SHOWING BUREAUS AND DIVISIONS, OFFICIALS IN CHARGE (IN ITALICS), AND SECTION OF LABOR LAW (IN PARENTHESES) AUTHORIZING BUREAU OR DIVISION

Department of Labor <i>Commissioner</i> (§ 40)	Bureau of Inspection — <i>1st Deputy Commissioner</i> (§§ 42, 53)	<div> Division of Factory Inspection { First District — <i>Chief Factory Inspector</i> (§ 55) Second District — <i>Chief Factory Inspector</i> (§ 55) </div> <div> Division of Homework Inspection — <i>Chief of Division</i> (§ 57) </div> <div> Division of Mercantile Inspection — <i>Chief Mercantile Inspector</i> (§ 58) </div> <div> *Division of Appeals — <i>Assistant Chief Factory Inspector</i> (§ 53) </div> <div> Division of Industrial Hygiene — <i>Director</i> (§ 60) { Section of Medical Inspection (§ 61) *Subdivision of Engineering (§ 53) </div>
	Bureau of Statistics and Information — <i>Chief Statistician</i> (§§ 42, 62)	<div> Division of General Labor Statistics — <i>Chief of Division</i> (§ 63) </div> <div> Division of Industrial Directory — <i>Chief of Division</i> (§ 63) </div> <div> Division of Industrial Accidents and Diseases — <i>Chief of Division</i> (§ 63) </div> <div> Division of Special Investigations — <i>Chief of Division</i> (§ 63) </div> <div> Division of Printing and Publications — <i>Chief of Division</i> (§ 63) </div>
Industrial Board — <i>Commissioner of Labor as Chairman</i> ex officio (§ 50)	Legal Division — <i>Counsel</i> (§ 48)	
	Administrative Division — <i>Secretary to Commissioner</i> (§ 42)	
	†Bureau of Employment — <i>Director</i> (§§ 42, 66)	
	Bureau of Mediation and Arbitration — <i>2d Deputy Commissioner</i> (§§ 42, 140)	
	Bureau of Industries and Immigration — <i>Chief Investigator</i> (§§ 42, 151)	

* Established October 2, 1914.

† Director appointed November 1, 1914.

cerned, and while its duty under the law left no choice but to enforce the provisions of law, it was felt that this should not be done in any arbitrary or unreasonable fashion. Accordingly in the latter part of the year the possibility of appeal from field inspectors' orders to the Department, which has always existed and been more or less utilized without formal establishment, was definitely announced to all employers by the printing upon all forms for orders sent to factory proprietors of the following notice:

IMPORTANT.— If you believe these orders are unreasonable or unnecessary, and you desire to have them changed, modified or waived, you are not required to employ or retain a lawyer, architect, engineer, building expert or fire prevention expert. Make written protest within five days to the Commissioner of Labor, when, if the facts justify, a reinspection will be made and such action taken as the later inspection warrants.

Without relaxing intent or effort to enforce the law, the rule of reason was thus definitely applied to such enforcement. Experience under this practice soon revealed the desirability of establishing in New York City, for the first inspection district, a special division of appeals to handle such matters, and such division was accordingly set up on October 2.

The establishment of the subdivision of engineering was dictated by the amount of work which developed under the new requirements as to structural conditions in factories, especially the examination of plans for new buildings or alterations submitted under section 79-d of the Labor Law.

THE METHOD OF LABOR LEGISLATION

The developments above noted as the ground for the creation of the division of appeals, illustrate a fundamental need in connection both with labor legislation and with administration of labor laws under present conditions.

This need is of a certain degree of elasticity as to details and application in order to insure effective as well as fair application of fundamental principles to immensely varying conditions and circumstances in different industries, communities or plants. Effective labor legislation today, especially along the lines of sanitation, safety and fire protection present highly complicated and technical problems, such as it is absolutely impossible for the Legislature as a whole to weigh or solve in detail, while at the

same time some authoritative regulation of such matters in detail is essential to insure adequate protection of the lives and health of wage earners. The question is essentially that of devising detailed regulations which shall be both adapted to securing their protective purpose and also adapted to the actual conditions of industry. Experience in New York in 1914 was an emphatic demonstration of what is being more and more clearly realized everywhere that discretionary regulatory power to apply in detail according to the needs and circumstances of varying conditions in industry, the fundamental requirements of statutory law, is a practical necessity.

This idea, that there must be delegated regulatory power to deal with the diverse, complex and technical conditions which present day standards of health and safety in industry require shall be regulated, is not indeed new. Its statement here is, in fact, but a reiteration of what was recommended by both the Wainwright and Factory Investigating Commissions, and what was actually established by the creation of the Industrial Board. What is here emphasized is simply that the experience of the year 1914, when it fell to the Department to enforce many new requirements of the Labor Law going into far greater detail than ever before, forcibly confirms the soundness, not to say the absolute necessity, of that method of industrial regulation.

And let it be added in all earnestness that this may be said as well from the point of view of employers as well as wage earners. Wise employers must recognize that it is to ignore the experience of every country in the world to suppose that it is any longer a question of whether there shall be regulation of the conditions of work or not. That is not the choice today, but the question now is what the method of regulation shall be. Rightly organized and carried out, the method of administrative regulation here discussed, offers employers a more intelligent and non-partisan regulation than any other. For the whole principle of the method is the basing of regulations on expert investigation of the facts of industry, with not only hearing of, but with the co-operation of, employers in the actual making of the regulations. Rightly conceived and executed, the method is that of regulation by co-operation of government, employer and wage earner both in the devising and in the administering of regulations.

In thus arguing for a general principle in general terms, there is no notion of claiming that the year was devoid of difficulties along this road. Such a claim would be wide of the facts. Every piece of new machinery requires adjustment after starting, and every new process can be perfected only in a period of trying-out. But the initial friction or irritation which may have accompanied the first year's operation of an essentially new method should not be allowed to warp judgment as to its fundamental soundness in principle. The counsel of wisdom is to exercise patience and develop and adapt in the light of experience, rather than be discouraged by initial difficulties.

A TIME FOR PATIENCE IN LABOR LEGISLATION

The Commissioner of Labor realizes that it is a report on the administration of his Department which the law requires of him particularly. But the law also makes it part of his general duty to report on other phases of the condition of labor in the State. He ventures, therefore, to extend the urgency of patience, voiced in the preceding paragraph, to another and larger matter, which conditions at the close of the year 1914 make peculiarly a practical question.

He would be blind who should ignore the fact that the many new and far-reaching provisions of Labor Laws of 1913 and 1914 to protect the health and safety of wage earners under which the industries of the State found themselves in 1914, have seemed unduly burdensome to many employers in New York State. The perfectly natural result under such circumstances is a tendency to demand the repeal of such laws. Unfortunately, the extraordinary number of new requirements of law in 1914 came upon industry when it was suffering from a business depression, aggravated and prolonged in the latter part of the year by the war in Europe. Undoubtedly this situation has greatly increased the feeling of burdensomeness against the new laws. But it is respectfully urged that it is important to examine cause and effect carefully, and not to lay upon New York laws blame for business conditions which exist throughout the country. Is there not grave danger that New York labor laws may unwisely be changed on a wholly mistaken assumption that they are to blame for the

existing business situation? Still more must it be kept in mind that these laws in question have to do with the health and safety of great numbers of wage earning citizens. Modification of laws to promote business activity no one can take exception to when the price thereof be not the sacrifice of some interest of equal or greater moment for the general welfare. But safety of life and limb for any class of citizens cannot, with advantage to the State, be sacrificed for encouragement of business.

**WORK OF COMMISSIONER OF LABOR ON WORKMEN'S
COMPENSATION COMMISSION**

As *ex officio* member of the State Workmen's Compensation Commission, the activities of the Commissioner have been directed along three general lines: the handling of a large volume of correspondence relative to the operation of the Compensation Law; lending the co-operation of the Department of Labor wherever possible; and bringing to the attention of the workers of the State their rights and duties under the law. More than a thousand inquiries as to the interpretation and enforcement of the law have been answered by mail, and a large number of inquiries have been referred to the Compensation Commission. Letters of instruction and information, explaining the provisions of the law and advising as to methods of procedure under it, have been mailed to organized workers throughout the State. Inspectors of the Labor Department have reported violations as to the posting of notices, and also as to discrimination by employers against married men and those physically disabled. The information on the latter point, together with other similar information, led to an investigation by the Commission as to the extent of such discrimination by employers generally.

Respectfully submitted,

JAMES M. LYNCH,
Commissioner.

Part II

FINANCIAL REPORT OF THE DEPARTMENT
[19]

**(1) APPROPRIATIONS AND EXPENDITURES FOR YEAR
ENDED SEPTEMBER 30, 1914**

APPROPRIATIONS

	Balance Oct. 1, 1913	L. 1913, Chs. 792, 833 and 834; L. 1914, Ch. 530	Total	
Salaries:				
Official.....	\$19,040 51	\$106,874 32	\$125,914 83	
Graded.....	69,979 99	426,253 84	496,233 83	
				<u>\$621,648 16</u>
Traveling expenses:				
Commissioner and first deputy...	989 21	4,120 65	\$5,109 86	
Other.....	13,185 53	102,349 70	115,535 23	
				<u>120,645 09</u>
Printing.....	7,548 64	30,600 00	\$38,148 64	
Office and general expenses.....	2,518 22	63,559 65	66,077 87	
				<u>104,226 51</u>
	<u>\$113,262 10</u>	<u>\$733,257 66</u>		<u><u>\$846,519 76</u></u>

EXPENDITURES

Salaries:			
Official.....		\$89,833 93	
Graded.....		363,006 21	
			<u>\$452,840 14</u>
Traveling expenses:			
Commissioner and first deputy.....		\$3,322 00	
Other.....		73,535 22	
			<u>76,857 22</u>
Printing.....			<u>\$28,357 73</u>
Office and general expenses:			
Rents of sub-offices.....		\$15,293 48	
Postage and transportation.....		\$9,553 02	
Telephone, telegraph and messenger service.....		4,075 66	
Stationery, typewriter supplies, etc.....		2,907 38	
Books, subscriptions and clippings.....		900 59	
Office furniture and equipment.....		10,017 43	
Miscellaneous.....		13,268 00	
			<u>56,015 56</u>
			<u><u>\$614,070 65</u></u>

BALANCES

Salaries:			
Official.....		\$27,956 21	
Graded.....		\$120,307 31	
			<u>\$148,263 52</u>

^a During the year \$5,258.10 was expended from funds for printing for stamped envelopes purchased through the state printer. This amount here charged to printing represents postage in part.

^b Exclusive of \$4,982.67 appropriated by chapter 546 of the Laws of 1912, lapsed during year.

^c Exclusive of \$16,561.83 appropriated by chapters 87, 546 and 547 of the Laws of 1912, lapsed during year.

Balances — concluded

Traveling expenses:		
Commissioner and first deputy	\$3798 65	
Other	\$42,000 01	
		\$42,798 66
Printing	\$39,790 91	
Miscellaneous	\$10,062 31	
		19,853 22
		<u>\$210,915 40</u>

d Exclusive of \$989.21 appropriated by chapter 546 of the Laws of 1912, lapsed during year.
e Against this bills were outstanding on October 1, 1914, amounting (with an estimate of \$308.66 for bills not then rendered) to \$8,559.56.
f Against this bills were outstanding on October 1, 1914, amounting to \$8,948.40.
g Against this bills were outstanding on October 1, 1914, amounting (with an estimate of \$175.29 for bills not rendered) to \$2,082.92.

(2) ORGANIZATION, PERSONNEL, AND INDIVIDUAL SALARY
AND EXPENSE ACCOUNTS FOR 1914

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
GENERAL ADMINISTRATION				
Commissioner of Labor:§				
James M. Lynch.....	Oct. 23, 1913	\$8,000	\$7,526 87	\$1,881 71
John Williams.....			1,875 00	217 75
John Mitchell.....			767 02	102 90
1st Deputy Commissioner:* 1				
F. J. Frial.....	Feb. 16, 1914	5,000	3,110 11	1,119 64
2d Deputy Commissioner:* 2				
W. C. Rogers.....	Oct. 16, 1910	4,500	4,500 00	604 55
Legal Branch				
Counsel:*				
F. H. Cunningham.....	Jan. 1, 1908	4,000 3	3,733 86	624 15
1st Assistant Counsel:*				
M. S. Levine.....	Jan. 5, 1914	3,000	2,213 71	
Special Agent — Legal:				
Charles Whelan.....	Oct. 1, 1908	2,000	2,000 00	245 13
Factory Inspectors:				
P. J. Hughes.....	Jan. 6, 1914	2,000	1,470 42	8 45
Edward Quigley.....	Oct. 1, 1912	1,200	1,200 00	403 94
Stenographer:				
Florence W. Newbold.....	Nov. 12, 1912	1,200 4	950 00	1 25
Clerical, Etc.: Albany Office				
Secretary to Commissioner:*				
V. T. Holland.....	Nov. 1, 1913	3,000	2,750 00	37 96
Special Investigator:*				
R. J. Lynch.....	Feb. 1, 1914	2,000	1,333 33	114 46
Confidential Clerk:*				
T. F. Dillon.....	June 16, 1914	1,200	350 00	
J. H. Williams 5	Dec. 1, 1910	1,200	600 00	566 40
Inspector of Reports and Accounts:				
E. C. Countryman.....	April 1, 1914	2,000 6	958 33	
Auditing Clerk:				
J. S. Lyons.....	Jan. 27, 1899	1,800 7	1,150 00	
Bookkeeper:				
Sarah B. Slavin.....	Jan. 1, 1914	900 8	561 29	
Stenographers:				
Mary L. Stiegelmaier.....	July 1, 1905	1,800 9	1,775 00	
Olga E. Horle.....	Oct. 7, 1911	1,200 10	1,150 00	
Mabel P. Vanderpoel.....	Oct. 23, 1913 11	1,200	1,129 03	
Cora Woodard.....	Jan. 1, 1914	1,200 13	725 00	
Typewriter Copyist:				
Jennie I. Armstrong.....	Oct. 7, 1911	1,200 12	950 00	
Clerk:				
Flora M. Farrell.....	Nov. 4, 1912	900 14	686 50	
Chauffeur:†				
J. J. Quigley.....	April 27, 1914	1,200	513 33	581 49
Telephone Operator:				
Margaret Wildermuth.....	April 6, 1914 11	720 15	333 33	
Pages:				
J. J. Curran, Jr.....	July 1, 1914	360	90 00	
J. L. Joyce 16	Dec. 29, 1913	360		
Edward McGeough.....	April 20, 1914	360	161 00	

§ Footnotes are inserted at end of table.

General Administration — concluded

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Clerical, Etc.: New York City				
Office				
Chief Clerk:*				
M. F. Tanahey.....	Feb. 1, 1913	\$2,800 ¹⁷	\$2,800 00	.....
Detective:*				
Joseph Grandon.....	Jan. 5, 1914	1,500	1,108 85	\$134 15
Stenographer:				
Frances J. Garin.....	Oct. 16, 1911	1,200 ¹⁸	1,162 50	.....
Chauffeur:†				
J. F. J. Flood.....	Feb. 12, 1914	1,200	760 71	.....
Salvatore Ventre ¹⁹	Jan. 12, 1914	1,200	100 00	.....
Cleaner:†				
James Lynam.....	Oct. 21, 1913	720	681 29	.....
Messengers:				
Louis Roth.....	Jan. 1, 1914	600 ²⁰	390 00	.....
Louis Feldman.....	Jan. 1, 1914	480	360 00	.....
			<u>\$51,924 48</u>	<u>\$6,623 93</u>

BUREAU OF INSPECTION

Inspector General * (1st Deputy Commissioner, ex-officio):

F. J. Prial.....

Division of Factory Inspection:

First District

Chief Factory Inspector:*				
J. J. Flood ²¹	Dec. 3, 1913	\$4,000	\$3,822 56	\$663 36
Factory Inspector:				
Mrs. M. B. Orenstein ²²	Jan. 15, 1912	1,500 ²³	1,375 00	135 02
Stenographers:				
Winifred E. Lockrow.....	Mar. 10, 1902	1,200	1,200 00	.....
Jennie Cheskin ²⁴	Nov. 24, 1913	900	23 34	.....
Ellen A. Keane ²⁵	Dec. 23, 1913	900	471 77	.....
Florence Strauss.....	Oct. 7, 1913 ²⁶	900	884 27	.....
Grace E. Thompson ²⁷	June 16, 1912	900	450 00	.....
Typewriter Copyist:				
Celia Cohen.....	Jan. 5, 1914	900	664 11	.....
Harriet Gellert ²⁷	Jan. 5, 1914	900	176 61	.....
Minnie Graff.....	Feb. 1, 1914	900 ²⁸	487 50	.....
Frances A. Larkin ²⁹	Jan. 5, 1914	900	326 61	.....
Bessie Shapiro.....	Feb. 1, 1914	900 ³⁰	487 50	.....
Clerk:				
G. E. Dayton.....	April 1, 1900	1,200	1,200 00	.....
Amy L. Greene.....	Dec. 16, 1913 ³¹	900	712 50	.....
Filing Clerk:				
Rosina O. Phillips.....	Jan. 26, 1914	900	614 52	.....

Sub-District 1

Supervising Inspector:

M. J. Flanagan ³²	Mar. 1, 1914	2,500	2,083 32	361 66
Factory Inspectors:				
W. H. Guyett.....	July 1, 1906	1,800 ³³	1,587 50	291 04
J. S. Altschul.....	Nov. 26, 1906	1,500	1,500 00	280 96
C. G. Branch.....	Aug. 1, 1910	1,500	1,500 00	271 37
H. P. Brown.....	Nov. 16, 1910	1,500	1,500 00	193 19

Bureau of Inspection — continued

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Division of Factory Inspection:				
First District — continued:				
Sub-District 1 — concluded:				
Factory Inspectors — concluded:				
J. W. Ahearn.....	Nov. 1, 1913	\$1,200	\$1,200 00	\$352 3 ⁹
L. J. Broter.....	Jan. 1, 1914	1,200	900 00	169 4 ⁰
F. J. Conlan.....	Sept. 5, 1911	1,200	1,200 00	266 7 ³
James Davie.....	May 1, 1895	1,200	1,200 00	240 6 ⁹
L. L. Dunn.....	April 20, 1914	1,200	536 67	107 4 ⁹
D. S. Kelly ^m	Oct. 1, 1912	1,200	1,050 00	211 5 ⁶
T. P. Kelly.....	Nov. 1, 1913	1,200	1,100 00	210 0 ⁷
J. J. F. McKegney.....	Nov. 1, 1913	1,200	1,100 00	218 7 ⁰
J. J. McSherry.....	May 21, 1914	1,200	435 48	65 7 ⁶
G. A. Rosquist.....	Nov. 5, 1913	1,200	1,086 66	308 6 ⁷
H. S. Ward.....	Oct. 1, 1912	1,200	1,200 00	182 00
Sub-District 1-a				
Supervising Inspector:				
W. H. Donahue.....	Nov. 16, 1912	2,500	2,500 00	292 70
Factory Inspectors:				
Charles Baaner.....	Nov. 1, 1910	1,500	1,500 00	214 06
Nathan Hirstein ^m	Mar. 4, 1907	1,200	1,100 00	196 54
G. C. Adrian.....	Mar. 16, 1914	1,200	651 61	107 05
W. S. Baumet.....	Nov. 1, 1913	1,200	1,100 00	187 30
E. A. Devina.....	Nov. 1, 1913	1,200	1,100 00	203 78
J. J. Donnelly.....	Mar. 16, 1914	1,200	651 61	96 31
Rebecca B. Gourlie.....	Sept. 16, 1896	1,200	1,200 00	206 98
J. J. Halley ^m	Dec. 29, 1913	1,200	769 68	52 74
E. L. Hatfield.....	Nov. 16, 1913	1,200	1,050 00	154 72
Mrs. M. A. Kelly.....	Nov. 1, 1913	1,200	1,100 00	207 72
Herman Kinstler.....	Nov. 12, 1913	1,200	1,063 33	217 71
A. E. Lang.....	Oct. 1, 1912	1,200	1,200 00	282 79
J. P. Martin.....	Nov. 1, 1913	1,200	1,100 00	120 87
M. W. Taaffe.....	Jan. 16, 1912	1,200	1,200 00	297 16
S. F. Willis.....	Mar. 23, 1914	1,200	629 03	98 15
S. C. Wilson.....	Nov. 16, 1913	1,200	1,050 00	210 24
Sub-District 2				
Supervising Inspector:				
J. J. Murphy.....	Feb. 1, 1912	2,500	2,500 00	298 75
Factory Inspectors:				
D. J. Hanlon.....	April 9, 1896	1,800 ^m	1,675 00	420 26
E. F. McDonald.....	June 16, 1912	1,500 ^m	1,487 50	237 76
J. A. Orme.....	Jan. 16, 1912	1,500 ^m	1,487 50	335 55
Pietro Piliero.....	Oct. 2, 1912	1,500 ^m	1,375 00	321 84
G. P. Berner.....	Nov. 1, 1912	1,200	1,200 00	330 05
D. F. Donovan.....	Nov. 5, 1913	1,200	1,086 66	223 21
E. C. Gaines.....	Mar. 16, 1914	1,200	651 61	69 67
E. C. Hinman.....	Nov. 5, 1913	1,200	1,086 66	226 93
Minnie J. McMahon.....	Dec. 16, 1912	1,200	1,200 00	224 35
Mrs. M. J. O'C. Olsen.....	Jan. 1, 1912	1,200	1,200 00	258 33
Henry Trilling.....	May 21, 1914	1,200	435 48	70 48
S. L. Weyl.....	Nov. 1, 1913	1,200	1,100 00	219 17
Sub-District 3				
Supervising Inspector:				
Maurice Mikol.....	Dec. 3, 1913	2,500	2,066 52	33 37
Factory Inspectors:				
C. B. Ash.....	May 16, 1896	1,800 ^m	1,675 00	309 10

Bureau of Inspection — continued

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Division of Factory Inspection:				
First District — concluded				
Sub-District 3 — concluded				
Factory Inspectors — concluded				
S. N. Brenner.....	July 1, 1906	\$1,500	\$1,500 00	\$316 65
E. P. Dunham.....	Oct. 1, 1912	1,500	1,500 00	276 28
John Hofman.....	Feb. 1, 1912	1,500	1,500 00	258 76
A. P. Meehan.....	Jan. 16, 1912	1,500 ³⁸	1,375 00	550 70
J. F. Morgan.....	Oct. 9, 1911	1,500 ³⁸	1,487 50	476 92
G. C. Ward.....	April 11, 1910	1,500	1,500 00	297 98
T. F. Woods.....	Oct. 10, 1910	1,500	1,500 00	308 06
A. A. Farrell.....	Nov. 5, 1913	1,200	1,086 66	242 49
J. J. Hanlon.....	Dec. 29, 1913	1,200	909 68	236 48
A. A. Levin.....	Nov. 14, 1913	1,200	1,056 66	286 65
Helen P. McCormick.....	Nov. 1, 1913	1,200	1,100 00	243 42
J. A. McKee, Jr.....	Nov. 5, 1913	1,200	1,086 66	220 89
Sub-District 4				
Acting Supervising Inspector:				
Charles B. Ash ³⁷				
Factory Inspectors:				
Anna C. Bannon.....	Aug. 1, 1899	1,500 ³⁸	1,375 00	115 14
Lily F. Foster.....	Sept. 3, 1897	1,500 ³⁸	1,487 50	128 35
G. L. Horn.....	June 1, 1900	1,500	1,500 00	241 54
William Pearson.....	Sept. 23, 1905	1,500	1,500 00	130 83
J. J. Brown.....	Nov. 16, 1913	1,200	1,050 00	209 89
F. F. Spillman.....	Dec. 16, 1912	1,200	1,200 00	322 58
Division of Factory Inspection:				
Second District				
Chief Factory Inspector:*				
E. D. Jackson.....	Jan. 1, 1914	4,000	2,999 99	985 35
Assistant Chief Factory Inspector:				
H. L. Schnur.....	July 22, 1907	3,000	3,000 00	368 68
Clerks:				
A. J. O'Neill.....	April 3, 1894	1,800 ³⁸	1,800 00	
Jessie M. Sweeney.....	Jan. 9, 1894	1,800 ³⁸	1,775 00	
Estelle Jarvis.....	Nov. 1, 1909	1,200 ³⁸	1,200 00	
Jennie M. Wickham.....	Oct. 1, 1907	1,200	1,200 00	58 35
Factory Inspector:				
Annie L. Greene ⁴¹	Dec. 29, 1913	1,200	91 94	27 97
Filing Clerk:				
Alice Mullen.....	Jan. 6, 1914	900	661 69	
Stenographers:				
Jennie A. Dillon.....	Oct. 16, 1910	1,200 ³⁸	1,150 00	
Mary H. Lockwood ⁴²	Aug. 19, 1907	1,200	885 48	
Anna M. Byrne ⁴³	Jan. 7, 1914 ⁴⁴	900	621 77	
Typewriter Copyist:				
Jennie M. Sammon.....	Dec. 23, 1913	900	696 77	
Sub-District 5				
Supervising Inspector:				
L. A. Havens.....	Nov. 16, 1912	2,500	2,500 00	1,292 91
Factory Inspectors:				
W. E. Tibbs.....	June 1, 1896	1,800 ³⁸	1,675 00	752 48
G. C. Daniels.....	Jan. 15, 1908	1,500	1,500 00	384 37
G. I. Harmon.....	April 9, 1896	1,500	1,500 00	612 61
J. P. Harsha ⁴⁵	Oct. 1, 1912	1,500	1,437 50	734 07
Patrik Shea.....	Oct. 1, 1912	1,500 ³⁸	1,375 00	482 18

Bureau of Inspection — continued

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Division of Factory Inspection:				
Second District — continued				
<i>Sub-District 5 — concluded</i>				
Factory Inspectors — concluded				
J. T. Kelley.....	Mar. 16, 1914	\$1,200	\$651 61	\$401 31
C. E. Reid.....	Nov. 16, 1913	1,200	1,050 00	758 05
A. J. Smith.....	Dec. 29, 1913	1,200	909 68	531 77
Silas Owen.....				4 32
Stenographers:				
Hildred Lewis ⁴⁴	Nov. 23, 1913	900 ⁴⁷	604 87	
Anna M. McCann.....	Dec. 29, 1913	900 ⁴⁸	591 80	5 51
<i>Sub-District 6</i>				
Supervising Inspector:				
E. A. Bates.....	Feb. 1, 1912	2,500	2,500 00	472 04
Factory Inspectors:				
E. M. Wilber.....	Aug. 15, 1907	1,800 ⁴⁹	1,675 00	178 32
S. T. Wilson.....	July 15, 1907	1,800 ⁴⁹	1,675 00	299 40
W. G. Lowsbery.....	Aug. 1, 1899	1,500	1,500 00	601 60
F. S. Nash.....	Feb. 1, 1895	1,500	1,500 00	669 51
Joseph O'Rourke.....	May 1, 1895	1,500	1,500 00	278 34
W. M. Service.....	Jan. 16, 1912	1,500	1,500 00	676 46
J. R. Willis.....	Oct. 16, 1910	1,500	1,500 00	305 37
M. L. Callahan.....	Mar. 10, 1914	1,200	670 97	87 75
J. M. Derby.....	Dec. 29, 1913	1,200	909 68	647 68
E. T. Jones.....	Nov. 5, 1913	1,200	1,086 66	561 52
C. R. Perkins.....	Nov. 5, 1913	1,200	1,086 66	363 08
Stenographers:				
Magdalen H. Schill.....	Jan. 26, 1914	900	614 52	
Marjorie C. Boff ⁴⁹	Feb. 5, 1912	900	225 00	
<i>Sub-District 7</i>				
Supervising Inspector:				
W. R. Erskine, Jr.....	Dec. 1, 1912	2,500	2,500 00	423 39
Factory Inspectors:				
J. J. Bruckel.....	April 8, 1912	1,500 ⁴⁹	1,375 00	269 46
J. B. Sliter.....	Aug. 1, 1899	1,500	1,500 00	611 71
J. W. Ireland.....	Feb. 1, 1897	1,200	1,200 00	590 66
C. R. Kirby.....	Nov. 10, 1913	1,200	1,070 00	123 11
William Percival.....	Nov. 15, 1913	1,200	1,050 00	188 88
D. C. Sullivan.....	Oct. 1, 1892	1,200	1,200 00	222 00
W. S. Wollaver.....	Nov. 10, 1913	1,200	1,070 00	473 00
Verne A. Zimmer.....	Nov. 10, 1913	1,200	1,070 00	667 71
Typewriter Copyist:				
Edith M. Roberts.....	Feb. 7, 1912	900	900 00	
<i>Sub-District 8</i>				
Supervising Inspector:				
W. F. Jordan.....	Feb. 7, 1912	2,500	2,500 00	463 39
Factory Inspectors:				
G. L. Beckrich.....	Feb. 1, 1912	1,500 ⁴⁹	1,375 00	347 07
W. J. Gorman.....	May 1, 1912	1,500 ⁴⁹	1,375 00	245 63
D. S. Yard.....	Aug. 1, 1899	1,500	1,500 00	586 51
C. E. Corby.....	Nov. 5, 1913	1,200	1,086 66	270 58
T. F. Driscoll.....	Mar. 12, 1914	1,200	664 52	259 29
W. S. Finney ⁴⁹	Oct. 1, 1907	1,200	800 00	273 77
T. T. Harrington.....	Nov. 5, 1913	1,200	1,086 66	259 58
A. J. Mackenzie ⁴⁹	Aug. 1, 1910	1,200	750 00	149 74
M. F. Phillips.....	Dec. 29, 1913	1,200	909 68	170 97
Anna H. Souter.....	Nov. 5, 1914	1,200	1,086 66	137 92

Bureau of Inspection — continued

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Division of Factory Inspection:				
Second District — concluded				
Sub-District 8 — concluded				
Stenographer:				
Frances E. Briandler.....	Feb. 8, 1912	\$900	\$900 00	.....
			<u>\$169,762 54</u>	<u>\$35,269 87</u>
Division of Appeals				
Assistant Chief Factory Inspector:				
E. E. J. Piero	Feb. 16, 1914	3,000	\$3,811 01	\$85 70
Factory Inspectors:				
G. S. Cangialosi.....	July 1, 1906	1,800 ⁴⁴	1,675 00	205 84
Robert Northrup.....	Aug. 1, 1911	1,800 ⁴⁴	1,675 00	273 98
W. M. Rich.....	July 1, 1906	1,800 ⁴⁴	1,675 00	296 44
Abraham Sirota.....	July 1, 1906	1,800 ⁴⁴	1,675 00	244 64
A. J. Donahue.....	Oct. 1, 1912	1,500 ⁴⁴	1,375 00	303 30
Alex. Goldwin.....	Jan. 16, 1912	1,500 ⁴⁴	1,287 50	271 67
John Best.....	July 1, 1914	1,200	300 00	82 99
Stenographers:				
Amelia Miller.....	Dec. 1, 1913	900	750 00	.....
Hannah Wassman.....	Dec. 22, 1913	900	699 19	.....
Typewriter Copyists:				
Angelo DeVito.....	Feb. 15, 1913	900	900 00	.....
Irene A. Curley.....	Feb. 1, 1914	900 ⁴⁴	487 50	.....
			<u>\$15,310 20</u>	<u>\$1,714 56</u>
Division of Homework Inspection				
Chief of Division:				
Daniel O'Leary.....	July 1, 1899	\$3,000	\$3,000 00	\$155 50
Factory Inspectors:				
Jessie M. Bolin.....	Feb. 1, 1910	1,500 ⁴⁴	1,212 50	140 01
Florence C. Wilkinson.....	Oct. 1, 1907	1,500 ⁴⁴	1,250 00	176 75
Helene Brooks.....	Nov. 16, 1913	1,200	1,050 00	180 89
Kate Campbell.....	Mar. 16, 1914	1,200	651 61	78 38
Rose Deimling.....	Jan. 22, 1912	1,200	1,200 00	290 49
Margaret Finn.....	July 1, 1899	1,200	1,200 00	244 04
Kate L. Kane.....	July 11, 1895	1,200	1,200 00	326 41
Julie A. Leah.....	Dec. 29, 1913	1,200	909 68	122 70
Ella Nagle.....	Mar. 23, 1893	1,200	1,200 00	243 92
W. J. Neely.....	Aug. 1, 1896	1,200	1,200 00	251 20
Josie T. Nelligan.....	Nov. 1, 1913	1,200	1,100 00	215 28
Josie A. Reilly.....	Oct. 1, 1896	1,200	1,200 00	664 48
G. E. Reynolds.....	Jan. 8, 1912	1,200	1,300 00	477 67
Mary G. Schonberg ⁴⁴	Jan. 22, 1912	1,200	1,177 42	197 99
Clerks:				
Electa R. Lockwood.....	July 1, 1890	1,500 ⁴⁴	1,487 50	.....
Edna G. Barr.....	Feb. 9, 1914	900	578 57	.....
Typewriter Copyist:				
Marion E. O'Brien.....	June 16, 1912	900	900 00	.....
			<u>\$21,717 28</u>	<u>\$3,715 71</u>

Bureau of Inspection — continued

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Division of Mercantile Inspection				
Chief Mercantile Inspector:				
J. L. Gernon.....	Oct. 1, 1908	\$4,000 ⁸⁷	\$3,458 31	\$972 18
Mercantile Inspectors:				
F. L. Fiaber.....	Nov. 1, 1913	1,500	1,500 00	342 92
Carrie P. Houser.....	Jan. 22, 1912	1,500 ⁸⁸	1,375 00	381 90
J. J. A. Magee.....	Dec. 16, 1912	1,500 ⁸⁸	1,300 00	794 46
Mary L. Carbon.....	Oct. 1, 1912	1,200	1,200 00	219 22
P. F. Connelly.....	Sept. 1, 1911	1,200	1,200 00	654 96
G. P. Fay.....	Dec. 16, 1912	1,200	1,200 00	308 55
Jacob Glasen.....	May 22, 1914	1,200	432 26	75 44
J. F. Grant.....	Dec. 29, 1913	1,200	909 68	192 09
Verrie E. Harrison.....	Oct. 7, 1912	1,200	1,200 00	268 05
Louis Herakowits.....	Dec. 29, 1913	1,200	909 68	170 55
N. H. Hertabarger.....	Dec. 29, 1913	1,200	909 68	179 47
William Johnson.....	Dec. 29, 1913	1,200	909 68	236 81
James Lowe.....	Dec. 29, 1913	1,200	909 68	174 99
J. H. Price.....	Dec. 29, 1913	1,200	999 68	276 14
W. A. Rogers.....	Dec. 29, 1913	1,200	909 68	176 50
Henry Rosenberg.....	Dec. 16, 1912	1,200	1,200 00	236 45
W. J. Schmitt.....	Dec. 29, 1913	1,200	909 68	189 72
J. B. Tarr.....	Dec. 29, 1913	1,200	909 68	186 45
J. F. Tewey.....	Dec. 29, 1913	1,200	909 68	202 67
Minnie J. Van Zandt.....	Jan. 22, 1912	1,200	1,200 00	240 95
Stenographers:				
May L. Honner.....	Oct. 1, 1908	1,200 ⁸⁹	1,200 00	.....
J. A. Burke.....	Oct. 17, 1913 ⁸⁸	900	861 29	.....
Anna Serby ⁸⁹	Oct. 14, 1912 ⁸⁸	900	813 55	.....
Mrs. L. C. Horner.....	Feb. 1, 1914	720 ⁸⁸	360 00	.....
Typewriter Copyists:				
Ella R. Doran.....	Mar. 23, 1914	720	377 42	.....
Sadie Lustgarten.....	Sept. 16, 1914	720	32 00	.....
Clerk:				
Annie Schlesinger.....	Oct. 1, 1908	1,200 ⁸⁹	1,200 00	.....
			\$29,206 63	\$6,491 47
Division of Industrial Hygiene				
Director:				
Dr. C. T. Graham-Rogers ⁸⁸	April 1, 1914	\$4,000	\$3,250 00	\$351 31
Mechanical Engineer:				
William Newell ⁸⁸	Oct. 1, 1911	3,500	2,770 77	342 20
Fire Prevention Engineers:				
P. J. Gillespie.....	Sept. 1, 1914 ⁸⁸	3,500	291 67	.....
J. P. Quigley.....	April 16, 1914	3,500	1,604 16	706 03
Chemical Engineer:				
J. H. Vogt.....	June 16, 1914	3,500	2,170 83	440 24
Special Investigators: *				
A. M. Caridi.....	April 6, 1914	2,000	972 22	89 00
Michael Ocan.....	Jan. 5, 1914	2,000	1,475 80	176 52
E. V. Gilmore.....	Jan. 5, 1914	2,000	1,475 80	120 87
E. W. Hines.....	July 1, 1914	2,000	500 00	90 31
John McArdle.....	Jan. 5, 1914	2,000	1,475 80	457 23
R. P. Nethercott.....	Jan. 5, 1914	2,000	1,475 80	98 32
R. E. Quirk.....	Feb. 16, 1914	2,000	1,244 04	184 61
R. N. Wood.....	Feb. 16, 1914	2,000	1,244 04	137 64
Factory Inspectors:				
J. J. Sullivan.....	Jan. 6, 1914	2,000	1,470 42	306 23
Nathan Schwartz.....	Oct. 16, 1911	1,500 ⁸⁸	1,375 00	331 40

Bureau of Inspection — concluded

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Division of Industrial Hygiene — concluded				
<i>Secretary of Division:*</i>				
Katherine O'Reilly.....	June 18, 1914	\$1,500	\$429 17	.....
<i>Confidential Agent:*</i>				
Jacob Heints.....	Jan. 5, 1914	1,500	1,106 85	\$108 93
<i>Stenographer:</i>				
Louise T. Hartman.....	Dec. 22, 1913	1,200 **	749 19	.....
<i>Typewriter Copyist:</i>				
Carrie D. Hickox.....	Jan. 1, 1914 **	1,200 **	725 00	.....
<i>Section of Medical Inspection</i>				
<i>Medical Inspectors:</i>				
Dr. J. A. Lanahan.....	Aug. 16, 1914	2,500	312 50	.....
Dr. C. T. Graham-Rogers **	Nov. 1, 1907	2,500	.....	.....
Dr. L. L. Roos.....	April 16, 1914	2,500	1,145 83	39 80
Dr. Fanny Dembo **	April 6, 1914	2,500	590 24	25 65
<i>Sub-Division of Engineering</i>				
<i>Civil Engineer and Expert in Building</i>				
<i>Construction:</i>				
P. C. Spence.....	April 6, 1914	3,500	1,701 39	64 67
<i>Factory Inspectors:</i>				
T. M. Hewitt.....	Jan. 6, 1914	2,000	1,470 42	143 21
S. J. Smith.....	Jan. 6, 1914	2,000	1,470 42	151 53
S. J. Owen, Jr.....	June 1, 1911	1,500	1,500 00	180 53
P. F. A. Coughlin.....	Nov. 5, 1913	1,200	1,086 66	222 12
G. W. McMein.....	Mar. 16, 1914	1,200	651 61	73 84
E. P. Mullen.....	Nov. 1, 1914	1,200	1,100 00	215 97
<i>Engineering Draughtsman:</i>				
W. J. Picard.....	Mar. 1, 1914 **	1,500	875 00	68 95
<i>Draughtsman:</i>				
E. J. Boylston.....	Dec. 16, 1913 **	1,500 **	1,037 50	75
<i>Stenographer:</i>				
Anna M. Weber.....	May 1, 1912	900	900 00	.....
<i>Typewriter Copyists:</i>				
Katherine V. McQuade.....	Feb. 1, 1914	900 **	487 50	.....
Florence M. Raftery.....	April 6, 1914	720	350 00	.....
Sadie R. Weinreb.....	Feb. 1, 1914	720	480 00	.....
<i>Laborer:†</i>				
Joseph Fitzgerald.....	July 1, 1914	900	225 00	26 35
			<u>\$41,190 63</u>	<u>\$5,154 20</u>
Inspection of Mines, Tunnels, Public Work, Etc.				
<i>Mine Inspector:</i>				
W. W. Jones.....	May 10, 1911	\$1,800	\$1,800 00	\$777 05
<i>Tunnel Inspectors:</i>				
P. J. Steers **	Oct. 16, 1911	1,800	1,515 00	427 20
Gustav Werner.....	Oct. 1, 1907	1,800	1,800 00	500 33
<i>Confidential Agents:*</i>				
C. E. Hurley.....	Jan. 5, 1914	1,500 **	935 48	572 07
H. B. Whitney.....	Oct. 1, 1909	1,500	1,500 00	840 99
			<u>\$7,550 48</u>	<u>\$3,117 64</u>
			<u>\$284,737 76</u>	<u>\$55,463 45</u>

BUREAU OF STATISTICS AND INFORMATION

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Chief Statistician:				
L. W. Hatch.....	Nov. 16, 1907	\$4,000	\$4,000 00	\$298 83
Assistant Chief Statistician:				
G. A. Stevens.....	June 1, 1913	3,500	3,500 00	205 19
Division of General Labor Statistics				
Chief of Division:				
S. B. Dicker.....	June 1, 1913	2,500	2,500 00	.....
Statisticians:				
E. T. Bullock.....	Aug. 16, 1912	1,500 ⁷¹	1,500 00	202 15
C. E. Force.....	Aug. 16, 1912	1,500 ⁷¹	1,500 00	299 29
D. A. Hausmann.....	Dec. 28, 1908	1,500 ⁷¹	1,500 00	301 85
D. J. Naughtin.....	Sept. 23, 1897	1,500	1,500 00	185 30
S. B. Ackerman.....	Jan. 16, 1914	1,200	850 00	140 79
Special Agents:				
T. J. Hammill.....	Mar. 1, 1898	2,000 ⁷²	1,820 83	290 51
J. F. Bolin.....	Oct. 1, 1907	1,800 ⁷²	1,550 00	272 42
W. E. Pettit.....	June 7, 1898	1,800 ⁷⁴	1,787 50	260 45
P. J. Honan.....	Oct. 1, 1907	1,500	1,500 00	263 50
D. W. O'Connor.....	Mar. 1, 1898	1,500	1,500 00	311 94
Stenographers:				
Marie A. L. Moloney.....	July 1, 1911	1,200 ⁷⁵	1,125 00	.....
Martha I. Harney.....	Mar. 4, 1912	900	900 00	.....
Division of Industrial Directory				
Chief of Division:				
C. H. Sears ⁷⁶	Oct. 16, 1911	2,500	2,291 67	280 82
Expert Special Agents:				
Louis Levine.....	Aug. 16, 1912	1,800 ⁷⁴	1,787 50	21 55
R. A. Flinn.....	Jan. 16, 1913	1,800 ⁷⁵	1,550 00	6 90
F. F. Rosenblatt ⁷⁷	Aug. 16, 1912	1,800	1,800 00	34 95
Clerks:				
C. D. McMahon.....	Dec. 16, 1912	900	900 00	12 43
L. E. Fuller.....	Feb. 4, 1914 ¹¹	900 ⁷⁵	481 07	.....
Typewriter Copyists:				
E. J. Mason.....	Jan. 27, 1913	900 ⁷⁵	892 50	11 55
Mary Sattler.....	Sept. 1, 1914	720	60 00	.....
Division of Industrial Accidents and Diseases				
Chief of Division:				
L. D. Jones.....	June 1, 1913	2,500	2,500 00	.....
Clerks:				
Kate Shaffer.....	Sept. 14, 1886	1,500	1,500 00	.....
J. J. Angelum.....	Nov. 16, 1910	1,200 ⁸⁰	1,187 50	.....
Catherine E. Hannon.....	Feb. 1, 1914 ¹¹	900 ⁸¹	600 00	.....
Eleanor D. VanVranken ⁸²	Jan. 1, 1912	900	251 61	.....
Junior Clerk:				
J. M. Schneider.....	Feb. 16, 1913	720 ⁸⁰	685 00	.....
Stenographer:				
Caroline E. Rosenbloom.....	Oct. 1, 1910	1,200	1,200 00	.....
Division of Special Investigations				
Chief of Division:				
E. B. Patton.....	June 1, 1913	2,500	2,500 00	61 15
Expert:				
H. E. Hoagland ⁸⁴	Nov. 16, 1912	2,000	1,532 20	250 66

Bureau of Statistics and Information — concluded

POSITION AND INCUMBENT	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Division of Special Investigations — concluded				
Librarian:				
P. J. B. Haegy.....	Feb. 1, 1907	\$1,500 ^{ss}	\$1,450 00	\$113 65
Stenographer:				
Edna M. Devanna.....	Sept. 16, 1914 ¹¹	720	30 00	.....
Division of Printing and Publica- tions				
Chief of Division:*				
J. H. McCann.....	Jan. 5, 1914	3,000	2,213 71	.....
Proofreader:				
P. J. Brennan.....	Jan. 26, 1914	1,200 ^{ss}	669 35	.....
Junior Clerks:				
Cornelius Gray.....	Aug. 1, 1914 ¹¹	900 ^{ss}	150 00	.....
J. L. Joyce ^{ss}	June 29, 1914	600 ^{ss}	334 23	.....
Messenger:				
J. W. Guinan.....	July 20, 1914	480	95 48	8 25
			<u>\$53,695 15</u>	<u>\$3,834 13</u>

BUREAU OF MEDIATION AND ARBITRATION

Chief Mediator * (Second Deputy Commissioner, <i>ex-officio</i>):				
W. C. Rogers.....				
Mediator:*				
M. J. Reagan.....	July 10, 1905	\$2,800 ^{ss}	\$2,800 00	\$710 38
Assistant Mediators:*				
P. J. Downey.....	Oct. 1, 1907	2,000	2,000 00	685 44
James McManus.....	Oct. 1, 1907	2,000	2,000 00	644 34
Special Agent:				
J. J. Bealin.....	June 26, 1906	2,000 ¹¹	1,791 66	188 95
Clerk:				
Mabel L. Crouse.....	Oct. 1, 1906	1,200	1,200 00	.....
			<u>\$9,791 66</u>	<u>\$2,129 11</u>

BUREAU OF INDUSTRIES AND IMMIGRATION

Chief Investigator:*				
Marian K. Clark.....	Feb. 16, 1914	\$3,000	\$1,866 07	.....
Secretary to Chief Investigator:*				
T. J. Walsh.....	Feb. 16, 1914	1,800	1,119 64	\$55 13
Ranulph Kingsley ^{ss}	Dec. 12, 1912	1,800	450 00	.....
Counsel:*				
M. M. O'Brien, Jr.....	Oct. 1, 1911	2,800 ^{ss}	2,800 00	13 46
Special Investigator (legal):				
Jacob Galerstein.....	Nov. 16, 1912	1,200	1,300 00	286 48
Special Investigators:				
Albert DeLimer.....	Aug. 2, 1912	1,500 ^{ss}	1,300 00	494 16
A. E. Geannellis.....	Dec. 18, 1911	1,500	1,500 00	490 10
Jeannette C. Levy.....	May 8, 1912	1,500 ^{ss}	1,375 00	300 20
Alfred Markus.....	Jan. 9, 1911	1,500	1,500 00	473 48
Joseph Maypr ^{ss}	Jan. 16, 1911	1,500	395 16	11 25
F. C. Praete.....	Aug. 2, 1912	1,500 ¹¹	1,500 00	526 96
L. C. Wagner.....	Jan. 9, 1911	1,500	1,500 00	657 81
H. H. Wheaton ^{ss}	Nov. 4, 1912	1,500	812 50	215 87

Bureau of Industries and Immigration — concluded

POSITION AND INCUMBENT.	Date appointed to present position	Salary of position, Sept. 30, 1914	Salary received in 1914	Traveling expenses in 1914
Special Investigators — continued				
Samuel Auerbach ⁹⁶	Nov. 10, 1913	\$1,200	\$1,070 00	\$450 10
W. V. Brzesinski ⁹⁷	Nov. 5, 1913	1,200	196 34	101 91
Alko De Angel.....	Mar. 15, 1912	1,200	1,200 00	613 63
Leo Kiesler.....	July 20, 1914	1,200	238 71	65 93
Elias Orzechowski.....	Feb. 16, 1914	1,200	771 43	128 03
Alex. Wolaki.....	Feb. 23, 1914	1,200	746 43	237 01
Special Agent — Industrial:				
A. M. Fowler.....	Nov. 4, 1912	1,200	1,200 00	2 25
Stenographers:				
C. M. Hoffman ⁹⁸	Feb. 1, 1911	1,500	1,312 50	266 12
W. M. Sheehan ⁹⁹	Nov. 11, 1912	1,200	319 35	.....
Martha Burzynska.....	Feb. 18, 1914	900	554 46	6 50
E. I. Klein ¹⁰⁰	Jan. 4, 1913	900	342 86	66 13
Bessie Leon.....	Mar. 17, 1913	900 ¹⁰¹	885 00	.....
R. J. Masi.....	Oct. 1, 1912	900 ¹⁰²	855 00	.....
Lillian E. Schreiber ¹⁰³	Jan. 1, 1913	900	450 00	.....
Mae M. Ssudrowics.....	Oct. 1, 1912	900 ¹⁰⁴	855 00	.....
Florence C. Young.....	May 1, 1913	900 ¹⁰⁴	740 00	.....
Typewriter Copyists:				
Bertha L. Coles.....	Feb. 1, 1913	900 ¹⁰⁵	727 50	.....
Josephine A. O'Donnell.....	Sept. 1, 1914	720	60 00	.....
Olga J. Sjoberg.....	Feb. 1, 1914	720	480 00	.....
Clerks:				
Mary E. Kennar.....	April 22, 1912	1,200 ¹⁰⁶	912 50	.....
Selina Rabinowits ¹⁰⁷	April 8, 1912	900	300 00	.....
			<u>\$31,535 45</u>	<u>\$5,412 51</u>

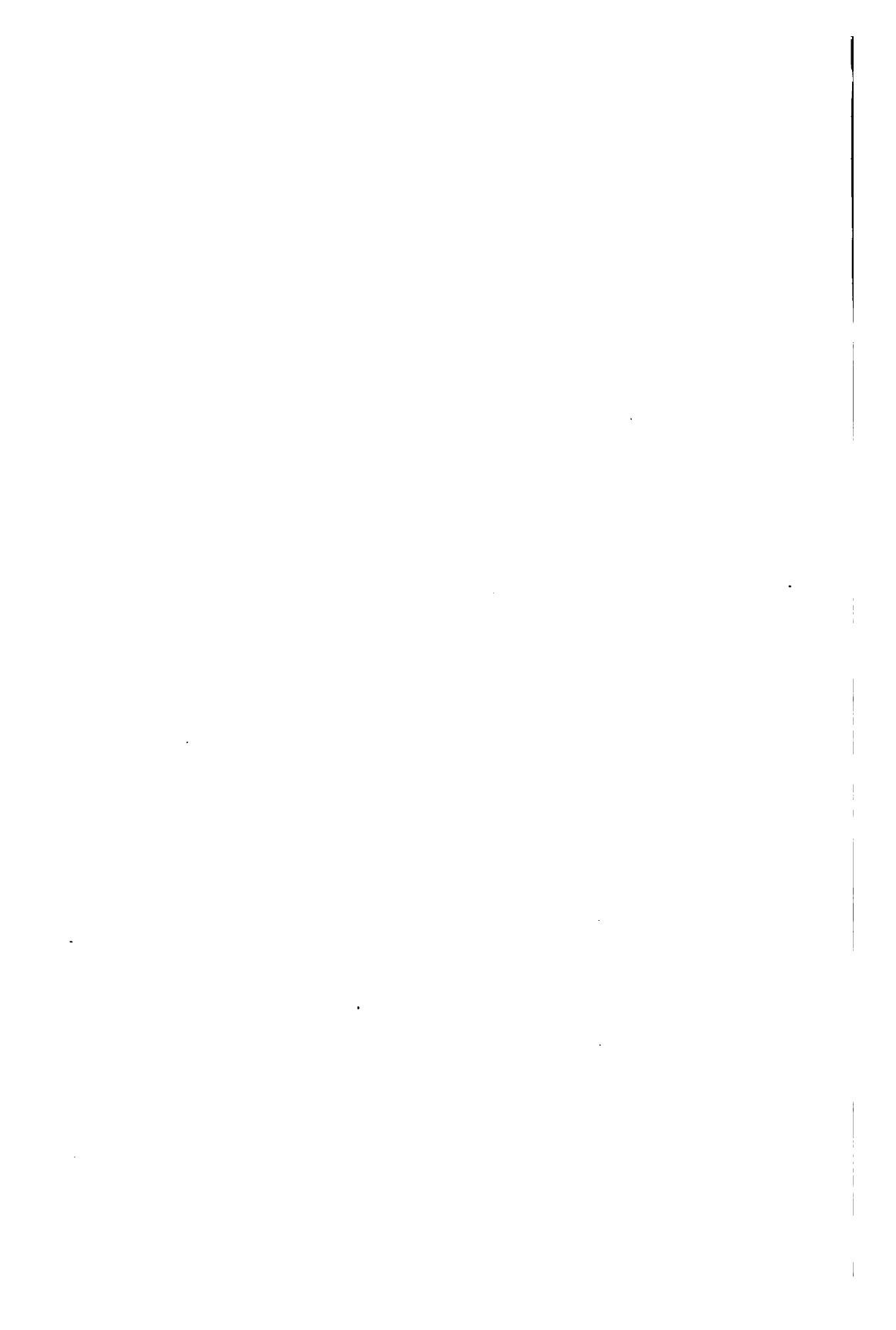
INDUSTRIAL BOARD

Chairman § (Commissioner of Labor, ex-officio):				
James M. Lynch.....	.....	.....	.....	.....
Associate Members: §				
R. J. Cullen.....	May 17, 1913	\$3,000	\$3,000 00	\$459 58
C. C. Flasech.....	May 17, 1913	3,000	3,000 00	1,102 58
Pauline Goldmark.....	May 28, 1913	3,000	3,000 00	291 08
Maurice Wertheim ¹⁰⁸	May 17, 1913	3,000	3,000 00	249 67
Secretary: *				
John Williams.....	Feb. 20, 1914	5,000	3,050 59	671 09
J. R. Shillady ¹⁰⁹	June 1, 1913	5,000	1,934 49	289 18
Special Investigator: *				
J. E. Hickey ¹¹⁰	Jan. 5, 1914	2,000	1,475 80	72 88
Stenographers:				
Edna Henry ¹¹¹	Oct. 6, 1913 ¹¹	1,200	1,182 26	210 38
Lillian B. Bradley ¹¹²	Dec. 1, 1913	900	750 00	.....
Katherine T. Quilgan.....	Nov. 26, 1913	900	762 50	.....
Export Advisor:				
J. P. Whiskman.....	.....	.....	.....	47 65
			<u>\$21,155 64</u>	<u>\$3,394 09</u>
			<u>\$452,840 14</u>	<u>\$76,857 22</u>

FOOTNOTES

- * Exempt.
- † Non-competitive.
- ‡ Unclassified.
- § Inspector-general.
- ¶ Chief mediator.
- ¶ Increased from \$3,000 January 5, 1914.
- ¶ Increased from \$900 August 1, 1914.
- ¶ Resigned March 31, 1914.
- ¶ Transferred from another State department at \$1,500 and increased to \$1,800 April 1, 1914; increased from \$1,800 June 16, 1914.
- ¶ Title changed to stock keeper and shipping clerk and salary reduced to \$1,200 April 1, 1914; died June 15, 1914.
- ¶ Increased from \$720 August 1, 1914.
- ¶ Increased from \$1,500 November 1, 1913.
- ¶ Increased from \$600 to \$1,000 October 1, 1913 and from \$1,000 January 1, 1914.
- ¶ Transferred from another State department.
- ¶ Transferred from another State department at \$600 and salary increased to \$900 January 1, 1914; increased from \$900 August 1, 1914.
- ¶ Increased from \$900 August 1, 1914.
- ¶ Increased from \$480 to \$600 November 4, 1913; from \$600 to \$720 January 1, 1914 and from \$720 September 16, 1914.
- ¶ Increased from \$480 May 1, 1914.
- ¶ Transferred to junior clerk, Bureau of Statistics and Information, Division of Printing and Publications, June 29, 1914, which see.
- ¶ Increased from \$2,400 October 1, 1913.
- ¶ Increased from \$900 to \$1,080 October 16, 1913; increased from \$1,080 January 1, 1914.
- ¶ Temporary appointment for one month January 12, 1914; resigned February 11, 1914.
- ¶ Increased from \$480 July 1, 1914.
- ¶ Resigned from position of Assistant Chief Factory Inspector December 2, 1913.
- ¶ Assigned to State Factory Investigating Commission.
- ¶ Increased from \$1,200 March 1, 1914.
- ¶ Resigned December 2, 1913.
- ¶ Transferred to another State department June 30, 1914.
- ¶ Resigned March 31, 1914.
- ¶ Granted leave of absence without pay March 16, 1914; dismissed July 27, 1914.
- ¶ Increased from \$720 September 16, 1914.
- ¶ Transferred to county position May 16, 1914.
- ¶ Resigned from position of factory inspector February 28, 1914.
- ¶ Increased from \$1,500 June 16, 1914.
- ¶ Suspended August 16, 1914.
- ¶ Removed May 5, 1913; reinstated November 1, 1913.
- ¶ Increased from \$1,500 March 1, 1914.
- ¶ Increased from \$1,200 October 16, 1913.
- ¶ Increased from \$1,200 March 1, 1914.
- ¶ See under Factory Inspector, first district, sub-district 3, above.
- ¶ Increased from \$1,500 October 1, 1913.
- ¶ Increased from \$1,500 November 1, 1913.
- ¶ Increased from \$1,000 October 1, 1913.
- ¶ Reinstated December 29, 1913; resigned January 25, 1914.
- ¶ Increased from \$900 to \$1,000 October 1, 1913; increased from \$1,000 January 1, 1914.
- ¶ Reinstated after leave of absence; Miss Lockwood January 5, 1914, Mr. Finney February 1, 1914.
- ¶ Granted three months' leave of absence without pay, September 16, 1914.
- ¶ Suspended September 16, 1914 for fifteen days; reinstated with pay for period of suspension September 30, 1914.
- ¶ Granted leave of absence without pay, September 1, 1914.
- ¶ Increased from \$720 May 24, 1914.
- ¶ Increased from \$720 June 29, 1914.
- ¶ Resigned December 31, 1913.
- ¶ Resigned May 16, 1914.
- ¶ Resigned from position of Supervising Inspector February 15, 1914.
- ¶ Increased from \$1,200 June 16, 1914.
- ¶ Increased from \$720 September 16, 1914.
- ¶ Increased from \$1,200 September 16, 1914.
- ¶ Increased from \$1,200 August 1, 1914.
- ¶ On leave of absence without pay from August 25, 1914 to September 1, 1914.
- ¶ Increased from \$3,000 April 1, 1914.
- ¶ Increased from \$1,200 June 1, 1914.
- ¶ Increased from \$900 October 1, 1913.
- ¶ Resigned September 8, 1914.
- ¶ Increased from \$480 August 1, 1914.
- ¶ See also under Medical Inspector, below.
- ¶ Resigned June 30, 1914.
- ¶ Title changed from Expert in Fire Prevention, September 1, 1914.
- ¶ Resigned from position of factory inspector at \$1,800 (increased from \$1,500 March 1, 1914) June 1, 1914.
- ¶ Increased from \$900 August 1, 1914.
- ¶ See under Director, Division of Industrial Hygiene, above.
- ¶ Resigned June 30, 1914.
- ¶ Increased from \$720 September 16, 1914.
- ¶ Dismissed November 3, 1913; reinstated January 1, 1914.
- ¶ Increased from \$1,200 October 1, 1913.
- ¶ Increased from \$1,500 October 16, 1913; from \$1,800 August 1, 1914.

- ⁷² Increased from \$1,500 August 1, 1914.
- ⁷⁴ Increased from \$1,500 October 16, 1913.
- ⁷⁶ Increased from \$900 January 1, 1914.
- ⁷⁶ On leave of absence without pay from December 16, 1913, to January 15, 1914.
- ⁷⁷ Resigned September 15, 1914.
- ⁷⁸ Increased from \$600 to \$720 February 4, 1914; increased from \$720 September 16, 1914.
- ⁷⁹ Increased from \$720 October 16, 1913.
- ⁸⁰ Increased from \$900 October 16, 1913.
- ⁸¹ Increased from \$600 February 1, 1914.
- ⁸² Transferred to another State department January 12, 1914.
- ⁸³ Increased from \$480 to \$600 October 16, 1913; from \$600 January 1, 1914.
- ⁸⁴ Resigned July 7, 1914.
- ⁸⁵ Increased from \$1,200 December 1, 1913.
- ⁸⁶ Increased from \$900 July 26, 1914.
- ⁸⁷ Transferred from another State department at \$600 and salary increased to \$900 August 1, 1914.
- ⁸⁸ See also under Page, Division of General Administration, above.
- ⁸⁹ Increased from \$360 June 29, 1914.
- ⁹⁰ Increased from \$2,500 October 1, 1913.
- ⁹¹ Increased from \$1,500 March 1, 1914.
- ⁹² Resigned December 31, 1913.
- ⁹³ Increased from \$2,400 October 1, 1913.
- ⁹⁴ Resigned January 5, 1914.
- ⁹⁵ Resigned April 15, 1914.
- ⁹⁶ Granted leave of absence for one month without pay, November 24, 1913.
- ⁹⁷ Dismissed January 3, 1914.
- ⁹⁸ Transferred to another State department August 16, 1914.
- ⁹⁹ Transferred to another State department January 6, 1914.
- ¹⁰⁰ Resigned February 17, 1914.
- ¹⁰¹ Increased from \$720 November 1, 1913.
- ¹⁰² Increased from \$720 January 1, 1914.
- ¹⁰³ Resigned March 31, 1914.
- ¹⁰⁴ Increased from \$600 to \$720 November 1, 1913; from \$720 August 1, 1914.
- ¹⁰⁵ Increased from \$720 September 16, 1914.
- ¹⁰⁶ Increased from \$900 September 16, 1914.
- ¹⁰⁷ Resigned January 31, 1914.
- ¹⁰⁸ Resigned August 31, 1914.
- ¹⁰⁹ Resigned February 19, 1914.
- ¹¹⁰ Specially assigned to Industrial Board.



Part III
REPORT OF THE INDUSTRIAL BOARD

[37]

REPORT OF THE INDUSTRIAL BOARD

HON. JAMES M. LYNCH, *Commissioner of Labor*:

SIR: In compliance with the instructions of the Industrial Board, I submit the accompanying brief report covering the Board's work to date. It contains:

- I. Brief reference to the Board's statutory powers.
- II. Statement of the Board's policy in the formulation of rules, viz.: through volunteer committees.
- III. List of committees and membership.
- IV. Brief statements relating to the work accomplished by each committee.
- V. Statement of the advantages of the co-operative method of formulating rules and the importance of sustaining the plan by providing a reasonable fund for the payment of traveling and hotel expenses incurred by the members of the Board's committees.
- VI. Excerpts from communications received from concerns who are represented on the committees, with reference to a continuance of services. These are important as showing the attitude of large employers and business men towards the Board and its methods.
- VII. Plea for appropriations to enable the Board to continue its system of volunteer committees.
- VIII. Meetings and hearings.
- IX. Industrial Code.

Yours respectfully,

JOHN WILLIAMS,
Secretary.

Powers of Industrial Board

The Industrial Board is empowered:

- (1) To make rules applying to all classes of factories and mercantile establishments.
- (2) To make special rules applying to certain specific trades only.

Policy

In exercising the above powers, the Board at the outset decided to invite the co-operation of employers, employees and the public.

In pursuance of this policy, a number of committees were created. These committees are composed of persons specially qualified to act as advisers in regard to the details of the matters on which the Board makes rules.

The response of governmental agencies, large employers of labor, organized workers and public spirited citizens to the Board's invitation was prompt and hearty. This is evidenced by the following list of committees and their membership.

Committee Membership

Committee on Fire Hazards

RICHARD J. CULLEN.....	Member of Industrial Board, Chairman, 1297 Lexington Ave., New York City.
F. J. T. STEWART.....	Superintendent, New York Board of Fire Underwriters, 123 William St., New York City.
C. K. MALLORY.....	Engineer of Construction and Maintenance, Solvay Process Co., Syracuse.
JOHN GILL	Bricklayers' Union, 1520 Roselle St., Bronx, New York City.
P. J. GILLESPIE.....	Fire Prevention Engineer, Department of Labor, 381 Fourth Ave., New York City.
MISS FRANCES PERKINS.....	Executive Secretary, Committee on Safety, 42d St. Bldg., New York City.
JOHN H. DERBY.....	Fire Prevention Engineer, 17 Madison Ave., New York City. (Representative of National Fire Protection Association.)
WILLIAM GUERIN	258 Broadway, New York City. (Former Chief, Bureau of Fire Prevention.)
JOSEPH O. HAMMITT.....	Chief, Bureau of Fire Prevention, Municipal Building, New York City.
JAMES H. HASTE.....	Manager Kodak Park Works, Eastman Kodak Co., Rochester.
GEORGE W. OLVANY.....	Counsel, Real Estate Board of New York, 165 Broadway, New York City.
H. J. TRAUTMANN.....	Jacob Dold Packing Co., Buffalo.

Committee on Ventilation and Lighting

MISS PAULINE GOLDMARK.....	Member of Industrial Board, Chairman, 270 West 94th St., New York City.
JOHN J. FLYNN.....	Vice-President International Metal Polishers' Union, 25 Third Ave., New York City.
D. D. KIMBALL.....	Consulting Engineer, Mechanical and Electrical Engineering, 15 West 38th St., New York City.
DR. JAS. ALEX. MILLER.....	18 West 51st St., New York City.

L. B. MARKS.....	Consulting Engineer, Mechanical, Electrical and Illuminating Engineering, 101 Park Ave., New York City.
JAMES TOLE	Superintendent Composing Room, New York Globe, New York City.
PROF. C. E. A. WINSLOW.....	Chairman, New York State Ventilation Commission, St. Nicholas Terrace and 139th St., New York City.
GEORGE B. WOODCOCK.....	Vice-President, Sherwood Shoe Co., Rochester.
W. H. CARRIER.....	Chief Engineer, Buffalo Forge Co., Buffalo.
CHARLES FIESELER	United Brotherhood of Carpenters and Joiners, New York District Council, New York City.

Committee on Sanitation and Comfort

MISS PAULINE GOLDMARK.....	Member of Industrial Board, Chairman.
E. J. BARCALO.....	Barcalo Manufacturing Co., Buffalo.
W. H. FARQUAHAR.....	Sanitary Engineer, Waring, Chapman & Farquahar, 874 Broadway, New York City.
ELECTUS D. LITCHFIELD.....	Architect, New York State Chapter American Institute of Architects, 477 Fifth Ave., New York City.
MISS MARY VAN KLEECK.....	Director, Committee on Woman's Work, Russell Sage Foundation, 130 East 22d St., New York City.
MISS ROSE SCHNEIDERMAN....	Member Cap Makers' Union, and Vice-President Women's Trade Union League, 43 East 22d St., New York City.
JOHN T. TURNER.....	Chief Inspector, Joint Board of Sanitary Control of the Cloak, Suit, Dress and Waist Makers' Association and Union, 31 Union Square, New York City.

Committee on Dangerous Machinery

CHARLES C. FLAESCH.....	Member of Industrial Board, Chairman, Unadilla.
M. H. CHRISTOPHERSON.....	General Works Manager, Otis Elevator Company, Yonkers.
JOHN P. COUGHLIN.....	International Association of Machinists, 1499 St. John's Place, Brooklyn.
ANDREW FREY	Oneita Knitting Mills, Utica.
L. R. COOPER.....	Secretary, Crosby Company, Buffalo.
MATTHEW E. KENNEDY.....	S. & T. Kennedy Valve Co., Elmira.
GEORGE C. LEVEE.....	Efficiency Engineer, Delaware & Hudson Railroad Co., Watervliet.
JOHN J. MUNHOLLAND.....	Business Agent, Pattern Makers' Association, Germania Bank Bldg., Spring St. and Bowery, New York City.
JESSE WALKER	Textile Workers' Union, Cohoes.

ARTHUR WILLIAMS	New York Edison Co., Elm and Duane Sta., New York City. (President American Museum of Safety.)
JAMES WILSON	Secretary, District Council of Machinists, 116 Nassau St., New York City.
C. L. YORK.....	Safety Engineer, General Electric Co., Schenectady.
JOHN F. ANCONA.....	Civil Engineer, Eastman Kodak Co., Rochester.
BRYCE E. MORROW.....	19 Waverly St., Schenectady. (Representing Utilities Mutual Insurance Co.)
MARK A. DALY.....	Secretary Associated Industries, White Bldg., Buffalo.
R. H. WHITE.....	American Locomotive Co., Schenectady.

Committee on Dangerous Trades and Processes

JOHN G. WALSH.....	Member of Industrial Board, Chairman, 233 West 15th St., New York City.
JOHN B. ANDREWS.....	American Association for Labor Legislation, 131 East 23d St., New York City.
PROF. G. W. THOMPSON.....	Chief Chemist, National Lead Co., 111 Broadway, New York City.
FREDERICK L. HOFFMAN.....	Statistician, Prudential Insurance Co., Newark, N. J.
PETER J. BRADY.....	Vice-President, International Photo-Engravers' Union, 923 Pulitzer Bldg., New York City.

Committee on Bakeries and Confectioneries

MAURICE WERTHEIM	Member of Industrial Board, Chairman.
MAX STRASSER	1454 St. Nicholas Ave., New York City.
CHARLES A. HAGAMAN.....	A. Hagaman & Co., 877 Madison Ave., Albany.
CHARLES IFFLAND	International Corresponding Secretary, Bakers and Confectionery Workers, 212 Bush Temple of Music, Chicago, Ill.
MAX FREUND	Member Bakers' Union, 418 East 77th St., New York City.
DR. GEORGE M. PRICE.....	Director, Joint Board of Sanitary Control, 31 Union Square, New York City.
MISS FRANCES PERKINS.....	Executive Secretary, Committee on Safety, 42d St. Bldg., New York City.

(The above committee was disbanded after the completion of the rules relating to sanitation in bakeries and confectioneries, Bulletin No. 4 of the Industrial Code, and the chairman, Mr. Maurice Wertheim, has since resigned

his membership on the Industrial Board, Mr. John J. Walsh having been appointed in his stead.)

Committee on Foundries

CHARLES C. FLAESCH.....	Member of Industrial Board, Chairman.
RICHARD H. CURRAN.....	Deputy City Clerk, Rochester. (Secretary Molders' Union.)
EDWARD KENER, JR.....	Manager Buffalo Co-operative Stove Co., Buffalo.
MARTIN W. HENLEY.....	Frazer and Jones Co., Syracuse.
D. J. CONBOY.....	Secretary Molders' Union, Corning.
BERNARD KELLY	Business Representative, International Molders' Conference and Board of Greater New York and Vicinity, Room 705, Park Row Bldg., New York City.
JOHN R. O'LEARY.....	Vice-President International Molders' Union, Box 699, Cincinnati, Ohio.
MARTIN MURPHY	American Locomotive Co., Schenectady.
F. E. WHEELER.....	President, International Heater Co., Utica.
CHARLES J. WILTSHIRE.....	Foundry Superintendent, General Electric Co., Schenectady.
ALEXANDER WITTENBERG	U. P. Local No. 87, International Molders' Union of North America, 629 Prospect Ave., Bronx, New York City.

Committee on Mines, Tunnels and Quarries

RICHARD J. CULLEN.....	Member of Industrial Board, Chairman.
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(This committee is not yet organized)

Committee on the Milling Industry

JOHN G. WALSH.....	Member of Industrial Board, Chairman.
PROF. G. A. HULETT.....	Princeton University, Princeton, N. J.
D. J. PRICE.....	U. S. Bureau of Mines Experiment Station, Pittsburg, Pa.
PROF. CHARLES E. MUNROE....	George Washington University, Washington, D. C.
G. W. BOOTH.....	Chief Engineer, National Board of Fire Underwriters, 135 William St., New York City.
LAWRENCE E. HARMON.....	President Buffalo Cereal Co., Buffalo.
T. V. O'CONNOR.....	International Longshoremen's Association, Brisbane Building, Buffalo.
JOSEPH SONNABEND	Business Agent, International Association of Machinists, 311 Law Exchange Bldg., Buffalo.
JOHN SULLIVAN	Secretary Brewery Workmen's Local Union No. 59, 25 Third Ave., New York City.
LOUIS B. SCHRAM.....	U. S. Brewers' Association, 50 Union Square, New York City.
R. R. HILLMAN.....	Ellicott Square, Buffalo.

Statement Relating to Committee Work

The services rendered by the volunteer members of the Board's committees are of the highest order and merit, many of the persons named being recognized as experts in their respective spheres of business. The time given by them to the various subjects considered and acted upon, if measured in dollars and cents, would run into many thousands of dollars. Indeed, if they were invited to serve for hire, it is doubtful whether the Board could have secured their co-operation. As it stands, they have been very keen to give of their expert knowledge without stint, in order that the rules of the Board might be the last word in sane and enlightened interpretation of the legislative intent with respect to the protection of factory workers' lives and limbs, without imposing unnecessary burdens upon the industries conducted within our State.

Attention is called to the following brief resume of the results thus far accomplished through the medium of these committees:

COMMITTEE ON FIRE HAZARDS

This committee has had under consideration some of the most difficult and technical subjects that the Board is required to act upon, namely: (1) Specifications to govern the installation of fire alarm signals in factories, and (2) Definitions of fire proof and fire resisting material for use in the construction, alteration and improvement of factory buildings and prescribing methods to govern such construction.

The committee, after careful thought and investigation, prepared tentative rules relating to both subjects; these were duly printed and distributed to owners of factories and of real estate devoted to manufacturing purposes. The Board thereupon gave formal hearings on such rules, as required by law. The records of the hearings were transcribed and the whole matter again considered by the committee which in turn presented its final conclusions to the Industrial Board and the rules, as contained in Bulletins Nos. 5 and 7 of the Industrial Code, were finally adopted.

COMMITTEE ON SANITATION AND COMFORT

This committee is charged with very important duties and has held many meetings at which two general subjects have been con-

sidered, namely: (1) Sanitation of living quarters in cannery labor camps; (2) General sanitation and comfort in factories.

The same procedure was followed as is recorded in the paragraphs relating to the Committee on Fire Hazards. Bulletin No. 3 contains the rules covering cannery labor camps. Rules on sanitation and comfort, applicable in factories generally, were printed in tentative form and hearings given in New York and Buffalo. These rules have been adopted and are now in course of preparation for the printer and will soon issue in bulletin form.

COMMITTEE ON VENTILATION AND LIGHTING

This committee is charged with the consideration of a highly technical subject and is now engaged in preparing the first draft of rules to cover ventilation, the removal of noxious or injurious gases and dust generated in the course of manufacture. Tentative rules covering the latter subject have been presented to the Industrial Board and accepted and a hearing thereon will soon be given.

COMMITTEE ON DANGEROUS MACHINERY

The elimination of industrial accidents is one of the burning questions of the day. It followed, therefore, that one of the important features of the Board's work would be the promulgation of rules relating to safeguards around machinery. This committee is made up largely of specialists in this line of work. The first subject taken up was elevators and hoistways. Rules were proposed, public hearings given in New York, Binghamton and Rochester, and after further deliberations and recommendations by the committee, the Industrial Board adopted the rules contained in Bulletin No. 8.

General rules relating to the guarding of machinery are now being framed and final recommendations will soon be submitted to the Board.

COMMITTEE ON FOUNDRIES

Foundries present problems and conditions that are so different from the average manufacturing plant that they have received special legislative consideration. Following out the policy

of the Legislature, the Industrial Board concluded that special rules applicable to foundries were necessary; therefore a committee on foundries was organized. This committee shows a greater degree of co-operation between employers and employees than most of our committees. Many meetings have been held and tentative rules have been submitted to the Board and accepted. Public hearings have been ordered and the established procedure will be followed until the rules are adopted and become effective.

COMMITTEE ON BAKERIES AND CONFECTIONERIES

The duty of prescribing a sanitary code for bakeries and confectioneries was laid upon the Industrial Board by legislative enactment. The committee on bakeries and confectioneries was organized in order that the Board might secure first hand information and advice from those best qualified to furnish it, so that the code when adopted would reflect the judgment of practical citizens. The usual procedure was followed and eventually the code was adopted and published in Bulletin No. 4.

COMMITTEE ON THE MILLING INDUSTRY

The organization of this committee was the result of an investigation into the causes of a serious explosion in a cereal mill in the city of Buffalo. The investigation demonstrated the need of rules to govern the construction, operation and maintenance of flour and cereal mills. The committee prepared rules and hearings were given and the Industrial Board is now about to act finally in the matter of their adoption.

COMMITTEE ON DANGEROUS TRADES AND PROCESSES

This committee has not been fully organized and plans for its work have not been fully developed. It will recommend such rules as may be necessary to safeguard operatives in accordance with well established standards of practice so far as they obtain, and in new fields it will recommend the adoption of rules that will effectuate safety according to the most modern scientific standards.

COMMITTEE ON MINES, TUNNELS AND QUARRIES

This committee has not been organized. Other duties laid upon the Industrial Board seemed to be more pressing. Moreover, the employees in this field are under the protection of rules promulgated by the Commissioner of Labor, which rules are to remain effective until amended or repealed by the Board.

ADVANTAGES OF THE CO-OPERATIVE METHOD OF PREPARING RULES

This brief resume of the work of the Board's committees is given with the idea of emphasizing the importance and practicability of the plan which was adopted. It brings into active contact the diverse interests that are concerned in the work in hand. Bringing face to face the representatives of capital and labor, to discuss subjects of vital interest to each group, serves not alone the purpose of working out satisfactory rules to govern the one and safeguard the other, but it also promotes good feeling and a better understanding of the motives that actuate them. It tends to the substitution of harmony and confidence for discord and distrust. For these reasons it is felt that this feature of the Board's procedure should be properly supported.

If the plan of evolving tentative rules through the medium of volunteer or unofficial committees is to survive and become more and more efficient the State should appropriate a reasonable sum of money for the payment of the traveling and hotel expenses of those who serve, such payments to be made in accordance with the established rules of the State Comptroller.

In regard to this question, the manufacturing and business concerns which have so generously contributed to the State in the matter of services on our committees are entitled to great credit. They are willing to continue their contributions, as the excerpts from their communications upon the subject, incorporated herein, would indicate.

The appropriation of one thousand dollars, available October 1, 1914, was practically exhausted in three months; in consequence the Board communicated with the manufacturing and other concerns whose representatives were on its committees, explaining the situation and urging that they continue to render assistance. The responses were very encouraging, as shown in the following quotations:

Excerpts from Communications Sent to the Board in Regard to Expenses of Committee Members

From Mr. G. E. Emmons, Manager, General Electric Works, Schenectady, December 22, 1914:

We have your favor of the 18th, in which you ask that our Mr. Charles J. Wiltshire be continued as a member of the Committee on Foundries, without further expense to the State.

We are perfectly willing to comply with your request, believing that the advice of Mr. Wiltshire, based upon his long practical experience as a foundryman, will be of advantage not only to your committee but also to foundry interests in general.

Also under date of December 23, 1914:

Referring to your favor of the 18th concerning Mr. C. L. York, my letter of yesterday in reference to Mr. C. J. Wiltshire will also apply to Mr. York.

From Mr. M. H. Christopherson, General Works Manager, Otis Elevator Company, Yonkers, December 24, 1914:

I beg to acknowledge receipt of your letter of December 18th, advising that the appropriation for the payment of committee expenses is now exhausted. Nevertheless, I hope to attend our next meeting called by the chairman January 19th, at Buffalo.

I trust the State will soon be in position financially so that they can pay the committee's expenses, as it seems only reasonable to expect the State to pay our expenses, as the members of the committee are high priced employees, and it is quite enough for the companies and corporations employing them to pay their salaries and not be burdened with the traveling and hotel expenses.

From Mr. J. D. Pennock, General Manager, The Solvay Process Company, Syracuse, January 16, 1915:

Replying to yours of recent date in which you inquire whether our Mr. C. K. Mallory, member of the Committee on Fire Hazards, may be permitted to continue in that capacity even though the Board cannot assume the expenses of the members on the various committees of the Board, due to lack of appropriation for this purpose, would say that for the present at least we shall be very glad to allow Mr. Mallory to serve on this committee.

We feel that the organization of the Industrial Board is excellent and that the sub-committees reporting to the Board are composed of capable engineers and experts in their line and that they have been conscientiously working for the best interests of the various industries of the State and the interests of the people as well. To my mind it would be a great pity if the Industrial Board should in any way be hampered in the good service that it is doing for the State. I further believe that this is the general opinion of manufacturers throughout the State.

From Mr. J. H. Haste, Manager Kodak Park Works, Eastman Kodak Company, Rochester, January 7, 1915:

I note that the appropriation for the payment of the expenses of members of the committees of the Industrial Board is about exhausted. It will, of course, make no difference in regard to the services of either Mr. Ancona or myself on these committees.

From Parsons and Company, General Agents, Utilities Mutual Insurance Company, 51 Wall Street, New York, January 28, 1915:

We are very pleased to note your statements regarding the value of Mr. Morrow's services to the Industrial Board as a member of the Committee on Dangerous Machinery. We consider ourselves very fortunate in having Mr. Morrow a member of your committee and we are quite willing to have him continue if you so desire, provided that his trips to New York City do not require more than a few days of his time each month.

We are particularly anxious to cooperate with those bodies doing active work along the lines which you are performing. If at a later date it is possible to defray Mr. Morrow's traveling expenses out of the appropriation made by the State, we will appreciate the same.

From Mr. J. H. Manning, Superintendent of Motive Power, Delaware and Hudson Company, Colonie, N. Y., December 23, 1914:

Beg to acknowledge receipt of your favor of December 18th with reference to the appropriation for payment of expenses of members of the committee being exhausted. We shall be glad to allow Mr. Levee to continue as a member of the Committee on Dangerous Machinery.

From Mr. Frank E. Wheeler, President International Heater Company, Utica, December 21, 1914:

Your favor of the 18th instant is received. If the appropriation for the committees connected with the Industrial Board has run out there is nothing more to be said, except that that fact will not prevent my attending the meetings of the committee. I do feel, however, very seriously and sincerely, that our expenses should be borne by the State. It should be sufficient to ask of us that we give our time.

From Mr. L. R. Cooper, Secretary, The Crosby Company, Buffalo, December 21, 1914:

We have your letter of the 18th, and note with regret that the appropriation for the payment of expenses for members of the different committees of the Board has been exhausted. We feel, however, that the matter is of considerable importance and that the mere matter of expense would not be a

sufficient reason for withdrawing. We therefore expect to stay in, and the writer hopes to meet you at all subsequent meetings.

From Mr. L. E. Harmon, President Buffalo Cereal Company, Buffalo, December 26, 1914:

I beg to acknowledge your favor of December 18th, and note that the appropriation for payment of expenses for members of the different committees of the Board has been exhausted.

It is certainly my intention to continue my services as a member of the Committee on Milling Industry, but at the same time think it is only fair that the State should reimburse me for at least traveling expenses. I suppose I could get this amount by asking the different milling industries for a subscription for same, but have never cared to do this. I think if the Board could secure funds for paying the traveling expenses only, it would be perfectly satisfactory, as the balance of expenses I should be very willing to meet. However, this may not be possible at the present time, and you can rest assured that I will not discontinue my services on this account.

Plea for Appropriations to Continue the Work

The writers of the foregoing communications furnish examples of fine public spirit; at the same time it is quite evident that some of them regard it as an imposition that they should be permitted to pay their own traveling and hotel expenses while rendering free service to the State.

Regarding the representation of employees on the Board's committees, the situation is very different. They are not in a position to do what the manufacturers are willing and able to do. Unless the expenses of their representatives are paid they cannot attend the meetings.

Under these circumstances, unless relief is granted in the form of a reasonably substantial appropriation to be devoted to the payment of the expenses of the Industrial Board's committees, a most unfortunate situation will at once arise. Labor will drop out of active participation in the work of formulating rules which are to bear a vital relation to their daily existence and well-being. The plan of the Industrial Board to inspire confidence and interest in its work through the co-operative or committee system of evolving rules will lose its effectiveness. Such a result would be a great pity and a serious loss.

Because the Industrial Board believes that the plan adopted and described herein is quite essential to the proper performance of

its functions, it has made appeal for appropriations, to meet the expenses of these committees.

The amount of money needed is not large nor will it be deemed unreasonable when the number of meetings held by committees and sub-committees is taken into account. It is well within the facts to say that each committee, while considering a given subject, has found it necessary to hold ten or a dozen meetings. This will have to be kept up for at least two years longer. Thereafter the necessity for committee work on such a large scale will not be pressing and appropriations for this particular subject may then very properly be reduced if not entirely eliminated.

Meetings and Hearings

The Industrial Board is required by law to hold a stated meeting in each month. This meeting is held on the last Thursday in the month. The Board has been in existence for twenty-two months. Its records show that, in addition to the stated meetings, about twenty-six special meetings have been held.

At these meetings the Board receives the report of the secretary, and the reports of the chairmen of committees. It hears and disposes of appeals filed with it pursuant to the Labor Law regarding (a) Exemptions under subdivision 5 of section 8-a of the Labor Law, relating to "one day of rest in seven"; (b) the acceptance of fire escapes as required means of exit from factory buildings more than five stories in height; (c) increases in the number of persons who may legally occupy factory premises; (d) relief from the requirements relating to the enclosure of stairways with partitions of fire-resisting material. In addition to these matters the Board transacts routine business. Every action of the Board is carefully recorded in its official minutes and these minutes are public records, open to examination by whosoever wishes to make such an examination.

The Board has also given not less than twenty public hearings on proposed rules, the first being held at Utica in June, 1913, and the last at Rochester in July, 1914. During most of these hearings some of the volunteer members of the committees which prepared the proposed rules under consideration, sat with the Board and by counsel and advice rendered most valuable services. Com-

plete transcripts of the records of these hearings are made and filed with other documents relating to each subject.

Industrial Code

The rules and regulations of the Industrial Board have been issued from time to time in the form of bulletins. Eight such bulletins have thus far been issued. According to the law these rules and regulations constitute the Industrial Code of the State. A compilation of the present rules and regulations in the form of such a code will be found in Part VII following page *127.

Part IV
REPORT OF BUREAU OF INSPECTION

[53]

(I) REPORT OF DIVISION OF FACTORY INSPECTION

(A) REPORT OF CHIEF FACTORY INSPECTOR, FIRST DISTRICT

Hon. JAMES M. LYNCH, *Commissioner of Labor*:

SIR.—Supplementing the summary tables printed elsewhere I would call your attention to the following:

Up to April 1, 1914, there were four sub-districts in the First Inspection District. On April 1, 1914, because of the volume of inspection work below Thirty-fourth street in the borough of Manhattan, the first district was subdivided into five sub-districts instead of four, and were designated as districts Nos. 1, 1a, 2, 3 and 4.

Because of the diversity of conditions existing in the various buildings inspected and the mandatory nature of the orders which must necessarily issue, on July 6th last a Division of Appeals was organized, and parties to whom notices were issued were notified that if they felt conditions warranted it, they might appeal from such orders, whereupon a re-inspection would be made, and if possible, orders would be modified. The idea was that while the Department realized its duty to safeguard the lives and health of factory employees, it wanted the public to feel that they were at liberty to take up the orders issued with the Department officials, and if any injustice was being done, the matter would be remedied without the recipient of a notice being put to any additional expense in retaining counsel, etc.

Owing to the complete change in the law which became operative October 1, 1913, the inspectors attached to this district were called upon to study conditions and issue orders covering matters heretofore taken care of by the municipal departments. The volume of work has increased to an enormous extent, but the inspectors with scarcely an exception have been equal to the occasion, and the figures given in the statistical tables in later pages show that both the supervising inspectors and the regular inspectors have rendered conscientious faithful service, realizing that in no other way could the burden of work laid upon the Department of Labor be accomplished unless each one did his or her share to the ultimate good of the State and likewise all factory employees.

During the year prosecution for violation of the Labor Law was begun in the various courts throughout the city and State,—1,107 cases having been brought. Of these 240 were pending

September 30, 1914, in 180 the defendants were either dismissed or acquitted, 6 were withdrawn, in 344 sentence was suspended and fines were imposed in 337. These fines aggregated \$9,350.

Respectfully submitted,

J. J. FLOOD,

Chief Factory Inspector, First District.

(B) REPORT OF CHIEF FACTORY INSPECTOR, SECOND DISTRICT

HON. JAMES M. LYNCH, *Commissioner of Labor:*

SIR.—I herewith transmit to you the annual report of the Division of Factory Inspection, Second District. Having been appointed by you as Chief Inspector in charge thereof January 1, 1914, this report covers work performed from October 1, 1913, to and including September 30, 1914.

I had been to an extent familiar with the general work of factory inspection, having gained valuable knowledge in my experience as a member of the State Factory Investigating Commission, and the first weeks of my incumbency were applied to the task of obtaining from an already systematic method of inspection more substantial and concrete data as to violations of law which were found, so as to lay a better groundwork for the issuance of proper corrective orders.

The ideas of First Deputy Commissioner F. J. Prial, and Chief Factory Inspector J. J. Flood of the First Inspection District, corresponding with my own, there was held during January, February and March, 1914, under your direction and presided over by you, conferences of the supervising inspectors, from which came a revision of the factory and bakery inspection cards, carrying more complete description of conditions found. The change has proven of much value to the records of this Division, also considerably lessening the clerical work of the inspectors and division clerks.

The work of observing violations of law in the canning industry during the past season, the result of which is treated in another part of the report, necessitated taking a number of inspectors from the regular field work and only by the greatest endeavor was it possible to accomplish complete inspection of all factory buildings

during the report year, and in this regard the policy that a thorough inspection was necessary was fully carried out.

The work of the Industrial Board in preparing the different codes required much time, and awaiting their promulgation this Division was somewhat handicapped in the matter of a thorough enforcement of the law. The bakery code, fire alarm system code, the code regulating the enclosure of stairways and that relating to the use of fire escapes not necessary as required means of exit, were the only ones that were finally adopted up to the end of the report year. It is gratifying to know, however, that the work of drafting the balance of the bulletins of the Industrial Board is progressing satisfactorily, and there is no doubt that the succeeding report of this Department will show that we are working under them in their entirety, and that in consequence we can go about more rapidly in gaining safer and more healthful conditions than we have in the past.

On July 1, 1914, a policy was put in effect under which greater latitude was allowed for appeals from orders, and up to September 30 a large number of persons affected by the operation of the law took advantage of the privilege granted them under your direction and appealed from the enforcement of certain requirements. In most of these cases it has been necessary to grant reinspection and this has entailed a great additional amount of work upon the supervising inspectors, as well as making personal inspection by me necessary in a large number of cases, also entailing a heavy increase in correspondence. It has, however, brought about a much better feeling and spirit of co-operation upon the part of owners of factory property which is rapidly tending to a more substantial and permanent compliance with the requirements of the law in bringing about safer conditions.

The Division of Engineering which was established in connection with the Albany office has proven an absolute necessity in connection with the handling of orders having to do with construction and alteration of factory buildings, and I feel sure will show as time passes even greater usefulness. There is much work that has been accomplished by this Division which cannot adequately be treated in a written report.

Time has proven the wisdom of dividing the State into two

main inspection districts, and the subdivision of these into supervising districts, as is seen in the excellent work accomplished. Better and more uniform methods of inspection have resulted and discipline maintained to a higher degree than was possible under the old system when inspectors were scattered State-wide at great distances from central authority with no direct supervision or check upon the work performed by them. I desire to advise with this report that the supervising inspectors and the field inspectors in this division have shown decided ability and aptitude, applying themselves to their work in a manner which has brought so much success in the application of the amended law, and I am sure a continuance of this will bring about a much desired end "that there shall be no unsafe factories in New York State."

September 30, 1914, marked the first year of the division of the State into two factory inspection districts, as called for in the law reorganizing the Department of Labor. This report relates entirely to the work of the factory inspectors in the Second District, which comprises all the territory outside of the boroughs of Greater New York and the counties of Nassau and Suffolk.

The boundaries of the four supervising districts in the Second District remain practically the same as when established March 1, 1912, the only difference being in the exchange of two counties in the Albany and Utica districts. This has resulted in a material saving of time in travel between points, as formerly it was necessary to traverse the counties in an adjacent assignment to reach places in the home district of an inspector.

An increase in the inspection force in all up-State districts has made it possible to undertake to a greater extent important work required under the laws which went into effect October 1, 1913. However, to successfully cope with the provisions of the exit and occupancy law, which in addition to detailed inspection reports, makes it necessary to furnish complete surveys of all factory buildings more than two stories in height, calling for orders involving in many instances radical structural changes, a further increase in the field force will be necessary to accord the factories even one complete inspection a year. In calculating the work of the inspectors the special duties performed by them must be taken into consideration. Much of this work is of a character showing

less on the surface for the efforts expended than regular inspection work would do.

In this connection I might state that in addition to the routine work done by the inspectors, 8,352 visits were made of a nature which preclude particular classification. They relate to appointments with owners and others bearing on factory orders, conferences with supervising inspectors and department counsel, visits to homes of children to obtain proof of age for use in cases of prosecutions, visits to complainants for more definite information in regard to alleged violations and other calls on the time of inspectors made necessary by the demands of the service and the proper enforcement of the law. This kind of work has been grouped under the general heading of "miscellaneous matters."

In reviewing the work of the factory inspectors for 1914, I am not in a position to make comparison with that of any previous year as the summary tables heretofore prepared were made to cover the entire State, when the jurisdiction of one chief inspector extended over its entire limits. Next year there will be a basis to work upon in making proper comparison and deductions as to the relative quantity and character of work performed. The tables in later pages will then become of much interest for comparative purposes.

Work of the Factory Inspectors

During the year ended September 30, 1914, the force of 37 factory inspectors in the four up-State supervising districts made regular inspections, including factories and bakeries, to the number of 14,988 and special inspections to the number of 4,163, making a grand total of 19,151. The number of employees reported at work in the establishments visited was 519,841. As a result of 13,943 of these inspections 88,048 orders were issued. The subjects of the orders issued were divided as follows:

Administration (requiring posting of laws, permits, etc.).....	6,300
Sanitation (relating to toilet facilities, washrooms, dressing rooms, cleanliness, ventilation, lights, etc.).....	27,200
Accident prevention (guarding machinery, elevators, etc.).....	35,895
Fire protection (requiring changes in structural conditions, means of egress, removal of waste and inflammable material, etc.).....	16,587
Children (working at prohibited occupations).....	20
Women and male minors (relative to hours of labor, prohibited occupations, seats for women).....	347
Miscellaneous (failure to pay weekly, to grant one day of rest, etc.).....	1,699

In addition to orders issued in the Second District, 95 specific requirements relating to boilers and explosives in mines and quarries were referred to the State Fire Marshal for attention, and 290 recommendations relating to sanitation in bakeries were referred to the health departments in Rochester and Buffalo for attention, as the enforcement of this matter rests with these boards in cities of the first class.

Compliances

In considering the work of the inspectors sight should not be lost of the repeated visits required to establish compliance with the orders of the Department. One or more visits of the inspector follow his visit of inspection in order to satisfy the Department that the requirements of the law have been complied with and before a final report can be filed in the records of the office. Visits made necessary for this purpose during the year numbered 26,767. It was found that 5,337 of the orders pending October 1, 1913, and the 43,251 added as a result of the inspections for 1914 had been complied with. The orders on which compliance was reported related to the following subjects:

Administration.....	5,295
Sanitation.....	15,151
Accident prevention.....	18,152
Fire protection.....	8,616
Children.....	11
Women and male minors.....	385
Miscellaneous.....	978

From a comparison with the 88,048 orders issued and the number reported as complied, there is a difference of 39,460. This might leave the impression that there was a general disregard of the orders of the Department and the requirements of the law by the employer to the extent mentioned. Experience has demonstrated that in the enforcement of new and untried laws, especially when the provisions are of a mandatory character, inspectors make many recommendations, which in the light of subsequent investigation, are found unnecessary or unreasonable, and would create hardships without resulting in any appreciable benefit to the employer or employee if insisted upon. In the greater number of cases orders were held in abeyance pending the adoption of rules and regulations by the Industrial Board to clearly define legal requirements by fixing standards for safety and sanitation.

In other instances orders were allowed to rest in consequence of the marked decrease in the number of employees found at the time of investigation of compliance. Another reason for the apparent difference shown was in the number of places destroyed by fire, removals of firms or change in proprietorships, which automatically vacated outstanding orders.

Bakeshops

Pending the adoption of the sanitary code for bakeries and confectioneries by the Industrial Board the work of inspecting bakeshops was not actively prosecuted until the first part of August, after the inspectors were withdrawn in the central and western districts from the work of investigating canning factory labor. In the remaining days of the report year the work of inspection was rapidly progressed and sanitary certificates were issued to 308 establishments in which it was found that the requirements of the law and the sanitary code applicable to bakeshops were complied with. It will not be possible to give a complete statement in regard to this phase of the work until the remainder of the bakeshops in this district, approximately 1,100, have been inspected with a view of applying the law and rules aforesaid. It should be borne in mind that the jurisdiction of this Department does not extend to shops located in cities of the first class, except as the subjects relate to safety and the hours of labor of employees. The departments of health in these cities are charged with the enforcement of all sanitary provisions.

It was found necessary to apply the "unclean" label in only 11 cases in up-State bakeries, which, from the number of bakeshops inspected, implies satisfactory sanitary conditions in the places visited.

Child Labor

No report would be complete unless due reference was made to the subject of child labor. Figures in a table in later pages show that 341 children under 16 years of age were found illegally employed in the up-State counties, distinct from those in the Greater New York district. Of this number 194 were boys and 147 girls, which included 37 children under 14 years of age. Prosecution was instituted in 29 cases for employing children without certificates, 19 for employing children under 14 years

of age and 27 for working children illegal hours. Of 78 children, considered as apparently under 16 years of age by the inspector, 31 proved to be over and 4 under that age. In 43 cases proof was not forthcoming within the 10 days required by law and the children were discharged from employment.

Accidents

In a Department bulletin will be presented statistics of accidents reported in 1914 for the entire State. Brief reference is made here only to the number of factory, mine, quarry and tunnel accidents that were accorded special attention by the inspectors in the Second Division during the present report year. Of 721 accidents investigated, 677 related to those which occurred on machinery and 44 where no mechanical power was involved. As a result of the investigations of 1914, after the causes had been fully determined, 175 orders were issued to provide additional machinery guards and to replace guards found removed at the time the accidents occurred. In 70 cases of machinery accidents it was found that no guard could be used and in 278 cases injuries resulted in spite of the best safeguards that could be provided. A noteworthy situation disclosed by these investigations was that in 131 cases, after the accident happened and before the inspector had time to examine conditions, the employer installed effective guards. Twenty-three investigations resulted in finding that the machinery on which the accident occurred was no longer in use, the factory closed, etc.

Of the 44 cases in which no mechanical power was involved, three orders to guard dangerous places or to improve conditions were issued. In 14 cases it was found that the employers had guarded the places of danger before the arrival of the inspector. In the remaining cases it was found that there was no way of preventing a recurrence of the accident.

Tagging

Special reference is made to this phase of the work, as the activities along this line were enlarged in the endeavor to impress upon employers the necessity of guarding machinery found in unsafe condition, where guards were found removed, and where

there was a tendency shown to delay in complying with Department orders. The tagging of machinery was resorted to in 13 cases and was productive of immediate results, and in no instance was it found necessary to follow up our action by court proceedings. When the tag was applied the machinery remained in idleness until the proper safeguard was attended to, and as material loss would result from continual idleness, haste was made to remedy conditions. The number of cases of tagging of machinery in this division equals that for the entire State in any previous year.

Complaints

The total number of complaints investigated by the inspectors in the Second District during the year was 279. In all cases where complaint was sustained prompt and suitable action was taken by serving notices and when orders were disregarded court proceedings were instituted.

Prosecutions

The summary of the work of prosecution is set forth in statistical tables later. Of the 33 cases pending October 1, 1913, 30 were disposed of through the action of the courts, conviction being obtained in one case, and dismissals and acquittals in 29. One case was withdrawn by the Department and two were pending at the end of the report year.

The figures covering the period of this report, October 1, 1913, to September 30, 1914, show increased activity on the part of the field force and the net result of their work is seen in the 198 cases brought into court. As in former years child labor violations predominated, yet it is satisfactory to note that the field of prosecution was extended in a larger degree than heretofore to matters of sanitation and safety. The custom had prevailed to grant lengthy extension on orders relating to these subjects and undue advantage was often taken in complying with the Department's requirements and no proper consideration given by many manufacturers to remedy conditions within the time limit of our notices. Out of the 198 cases instituted 75 relate to the illegal employment of children, 20 to employing women and minors illegal hours, 34 for failure to adequately protect employees against fire hazard, 21 for failure to provide means to protect employees

against accident, 19 for failure to improve sanitary conditions, 11 for failure to pay weekly and 18 for failure to grant the one day of rest to employees.

The combined figures referred to show that in the disposition of cases tried, 116 resulted in dismissals or acquittals, 10 in withdrawals, 40 in convictions with suspended sentences and 32 in which fines amounting to \$740 were imposed, with 33 cases pending on September 30, 1914.

Before leaving the subject of prosecutions particular reference is made to two classes of violations, one the result of laws enacted in 1913, requiring one day of rest in every seven, and the other the perennial violations in canning establishments. Of the 18 cases instituted to bring about the observance of the one day of rest law convictions were had in 6, with a fine of \$20 in each case, suspended sentences in 2 and withdrawals by the Department in 4 cases, with 4 pending at the close of the report year. The other notable line of prosecution was in connection with canning factory violations. In all 42 cases were brought and the net result of the efforts of the inspectors and Department counsel was convictions in two cases, dismissals or acquittals in 39 cases, leaving 1 case pending on October 1, 1914.

The designation of counsel during the past year to manage the cases of prosecution in the Second District, after the report of the inspector was submitted, has been of material benefit to this Division and relieved the inspectors of much detailed court work heretofore performed by the field force. Before the present arrangement the inspectors were obliged, after detecting the violations, to carry their own cases through the minor courts without assistance of counsel, unless special designation was made. By this move our court work is placed on a better business basis. Formerly inspectors were placed at a decided disadvantage when appearing alone to establish violations when confronted by learned and shrewd attorneys for defendants.

Respectfully submitted,

EDWARD D. JACKSON,
Chief Factory Inspector, Second District.

(C) STATISTICS OF FACTORY INSPECTION†

WORK OF FACTORY INSPECTORS

	YEAR ENDED SEPTEMBER 30, 1914			1913
	First Inspection District	Second Inspection District	Total State	
Number of regular inspections of:				
Factories occupying whole buildings.....	5,047	8,188	13,235	13,589
Tenant factories.....	27,605	5,003	32,608	33,324
Bakeries.....	293	1,797	2,090	4,366
Total.....	32,945	14,988	47,933	51,479
Number of special inspections (with or without orders).....	10,506	4,163	14,759	33,371
Number of complaints investigated.....	6,101	279	6,380	1,435
Number of compliance visits:				
First visits.....	41,215	12,298	53,513	40,785
Subsequent visits.....	49,145	14,469	63,614	28,747
Total.....	90,360	26,767	117,127	69,532
Number of tagging cases (exclusive of " assisting "):				
Section 95.....	871	.....	871	1,889
Section 114.....	.....	11	11	40
Section 81.....	.....	13	13	13
Section 19.....	16	.....	16	18
Total.....	881	24	905	1,960
Number of miscellaneous matters.....	44,112	8,352	52,464	*

* Not compiled.

† Compiled by Bureau of Statistics and Information.

‡ Figures for 1913 are not exactly comparable because they include some work of homework inspectors under regular inspections of tenant factories, special inspection, complaints and compliance. Compare the 1914 figures for Division of Homework Inspection in later pages, relative to such items.

ORDERS ISSUED BY THE DIVISION OF FACTORY INSPECTION AND REPORTED

SUBJECT OF ORDERS	NUMBER OF ORDERS ISSUED IN —		
	Inspection District No. 1	Inspection District No. 2	Total State
I. ADMINISTRATION:			
1. Posting of laws, permits, notices, etc.	27,835	5,861	33,696
2. Keeping of records, registers, etc.	590	316	906
3. Reporting to Department.	390	123	513
4. Interfering with inspector.	1		1
II. SANITATION:(a)			
1. Toilet facilities:			
a. Water closets.	27,089	11,556	38,645
b. Wash rooms.	4,144	1,903	6,047
c. Dressing rooms.	4,617	1,734	6,351
2. Cleanliness or repair of workrooms, halls, etc.	10,197	10,212	20,409
3. Ventilation, heat and humidity:			
a. General.	94	90	184
b. Removal of dust, fumes, etc.	526	1,298	1,824
4. Lighting.	99	58	157
5. Meals.	292	285	577
6. Drinking water.	101	63	164
7. Sanitation of living quarters.		1	1
III. ACCIDENT PREVENTION:			
1. Elevators and hoistways.	8,425	5,584	14,009
2. Machinery (including vats, pans, etc.)	21,120	25,794	46,914
3. Switchboards.	1,934	1,751	3,685
4. Stairs, pits, floors, etc. (including repairs)	1,515	1,973	3,488
5. Lighting to prevent accidents.	1,857	583	2,440
6. Explosives and blasting†	2	86	88
7. Hoisting, haulage and machinery†	11	112	123
8. Timbering, etc.†	9	12	21
9. Boilers†(b)			(b).....
IV. FIRE PROTECTION:			
1. Structural conditions:			
a. Number of exits.	103	59	162
b. Doors, doorways and windows.	17,121	3,253	20,374
c. Stairways.	765	46	811
d. Fire escapes.	8,902	1,804	10,706
e. Partitions.	73	3	75
f. Openings.	81	27	108
g. Other or general.		4	4
2. Clear means of egress.	46,368	9,566	55,934
3. Fire alarms and drills(b)			(b).....
4. Waste and inflammable materials.	5,195	1,367	6,562
5. Gas jets.	5,017	457	5,474
6. Smoking(b)			(b).....
7. Sprinklers(b)			(b).....
8. Number of occupants.	94	1	95
V. CHILDREN:			
1. Under 14 years(c)			(c).....
2. From 14 to 16 years:			
a. Certificates(c)			(c).....
b. Hours(c)			(c).....
c. Prohibited occupations.	17	20	37
VI. WOMEN AND MALE MINORS:			
1. Hours.	419	268	687
2. Prohibited occupations.	14	12	26
3. Employment after childbirth.			
a. Seats for women.	226	67	

NOTE—For footnotes see following pages.

67

COMPLIANCES THEREWITH FROM OCTOBER 1, 1918, TO SEPTEMBER 30, 1914

NUMBER OF COMPLIANCES REPORTED IN —							Subject number
INSPECTION DISTRICT NO. 1			INSPECTION DISTRICT NO. 2				
On orders issued prior to Oct. 1, 1913	On orders issued Oct. 1, 1913, to Sept. 30, 1914	Total in year	On orders issued prior to Oct. 1, 1913	On orders issued Oct. 1, 1913, to Sept. 30, 1914	Total in year	Total State	
81	25,632	25,713	148	4,828	4,976	30,680	I:
21	366	387	52	166	218	605	1
10	243	253	30	71	101	354	2
.....	.....	.....	.....	.....	.....	.....	3
.....	.....	.....	.....	.....	.....	.....	4
.....	.....	.....	.....	.....	.....	.....	II:
909	14,376	15,285	584	6,067	6,671	21,956	1a
83	1,783	1,866	205	523	728	2,594	1b
94	3,222	3,316	116	706	822	4,138	1c
544	7,105	7,649	300	5,939	6,239	13,888	2
2	35	37	9	68	77	114	3a
72	318	390	127	261	388	778	3b
4	27	31	1	36	37	68	4
18	292	310	65	68	133	443	5
1	56	57	22	32	54	111	6
2	.....	2	2	.....	2	4	7
.....	.....	.....	.....	.....	.....	.....	III:
55	3,312	3,367	165	2,172	2,337	5,704	1
624	14,845	15,469	2,264	10,758	13,022	28,491	2
2	1,402	1,404	22	1,014	1,036	2,440	3
117	955	1,072	375	1,004	1,379	2,451	4
53	760	813	27	216	243	1,056	5
.....	.....	.....	.....	.....	.....	.....	6
.....	9	9	.....	66	66	66	7
.....	.....	.....	.....	59	59	68	8
.....	.....	.....	.....	10	10	10	9
.....	.....	.....	.....	.....	.....	(b).....	IV:
.....	3	3	10	5	15	18	1a
.....	5,980	5,980	180	2,325	2,505	8,485	1b
.....	107	107	51	46	97	204	1c
1	1,330	1,331	98	299	397	1,728	1d
.....	5	5	.....	1	1	6	1e
.....	3	3	.....	1	1	4	1f
.....	.....	.....	1	2	3	3	1g
1	35,305	35,306	96	4,105	4,201	39,507	2
.....	.....	.....	.....	.....	.....	(b).....	3
74	3,979	4,053	178	810	988	5,041	4
.....	3,529	3,529	64	344	408	3,937	5
.....	.....	.....	.....	.....	.....	(b).....	6
.....	.....	.....	.....	.....	.....	(b).....	7
.....	14	14	.....	.....	.....	14	8
.....	.....	.....	.....	.....	.....	.....	V:
.....	.....	.....	.....	.....	.....	(a).....	1
.....	.....	.....	.....	.....	.....	(a).....	2a
.....	17	17	.....	11	11	(a).....	2b
.....	.....	.....	.....	.....	.....	28	2c
.....	.....	.....	.....	.....	.....	.....	VI:
15	196	211	131	203	334	545	1
.....	5	5	6	3	9	14	2
.....	.....	.....	.....	.....	.....	.....	3
8	191	199	8	34	42	241	4

ORDERS ISSUED BY THE DIVISION OF FACTORY INSPECTION AND REPORTED

Can

SUBJECT OF ORDERS	NUMBER OF ORDERS ISSUED IN —		
	Inspection District No. 1	Inspection District No. 2	Total State
VII. MISCELLANEOUS:			
1. Payment of wages.....	24	93	117
2. Day of rest.....	4,429	1,514	5,943
3. First aid appliances in foundries.....	30	86	116
4. Screens for stairs.....	120	6	126
Total.....	*199,845	*88,048	*287,893

* The number of inspections on which these orders were issued was 34,757 in the first district, 13,943 in the second, and 48,700 for the State.

† These relate only to mines, tunnels and quarries.

(a) During the fiscal year ended September 30, 1914, there were referred to the Health Departments of the first class cities the following orders:

Referred by the First Inspection District to the Health Department of New York City,

2,123 orders concerning bakeries, mainly relating to sanitation;

Referred by the Second Inspection District to the Health Department of Rochester, 201

orders concerning bakeries, mainly relating to sanitation;

Referred by the Second Inspection District to the Health Department of Buffalo, 89 orders

concerning bakeries, mainly relating to sanitation.

(b) The law concerning this subject is not enforced by the Department of Labor; it is enforced in the city of New York by the fire commissioner and elsewhere by the State Fire Marshal.

REPORT OF THE COMMISSIONER OF LABOR, 1914

69

COMPLIANCES THEREWITH FROM OCTOBER 1, 1913, TO SEPTEMBER 30, 1914—
checked

NUMBER OF COMPLIANCES REPORTED IN —							Subject number
INSPECTION DISTRICT NO. 1			INSPECTION DISTRICT NO. 2			Total State	
On orders issued prior to Oct. 1, 1913	On orders issued Oct. 1, 1913, to Sept. 30, 1914	Total in year	On orders issued prior to Oct. 1, 1913	On orders issued Oct. 1, 1913, to Sept. 30, 1914	Total in year		
.....	10	10	.....	53	53	63	VII: 1
.....	2,936	2,936	.....	887	887	3,823	2
.....	21	21	.....	34	34	55	3
6	72	78	.....	4	4	82	4
2,797	128,441	131,238	5,337	43,251	48,588	179,826	

During the fiscal year ended September 30, 1914, the following orders were referred to the foregoing officials:

	Referred by First Inspection District to Fire Commissioner of New York City:	Referred by Second Inspection District to State Fire Marshal:
Fire alarms.....	2,517	.....
Fire drills.....	776	.....
Sprinklers.....	226	.....
Smoking.....	181	29
Explosives and blasting in mines and quarries.....	.....	35
Boilers in mines and quarries.....	.....	21
(c) See separate tabulation for children found illegally employed (except "prohibited occupations").		

PROSECUTIONS FOR VIOLATIONS OF

SUBJECT OF LAW INVOLVED	FIRST INSPECTION DISTRICT					
	Number of cases	Pending	Dismissed, acquitted or withdrawn*	Convicted		Fines
				Sentence suspended	Fined	
A. Proceedings Instituted						
I. ADMINISTRATION						
1. Posting of laws, permits, notices, etc.						
2. Keeping of records, registers, etc.						
3. Reporting to Department	1		1			
4. Interfering with inspector						
II. SANITATION						
1. Toilet facilities:						
a. Water closets	6		1	4	1	\$30 00
b. Wash rooms	1		1			
c. Dressing rooms	4		1	1	2	45 00
2. Cleanliness or repair of workrooms, halls, etc.	3			2	1	20 00
3. Ventilation, heat and humidity:						
a. General						
b. Removal of dust, fumes, etc.	6			6		
4. Lighting						
5. Meals						
6. Drinking water						
7. Sanitation of living quarters						
III. ACCIDENT PREVENTION						
1. Elevators and hoistways	1				1	50 00
2. Machinery (including vats, pans, etc.)	3		1	1	1	20 00
3. Switchboards						
4. Stairs, pits, etc. (including repairs)						
5. Lighting to prevent accidents						
6. Explosives and blasting (mines, tunnels and quarries)						
7. Hoisting, haulage and machinery (mines, tunnels and quarries)						
8. Timbering, etc. (mines, tunnels and quarries)						
9. Boilers (mines, tunnels and quarries)						
IV. FIRE PROTECTION						
1. Structural conditions:						
a. Number of exits						
b. Doors, doorways and windows						
c. Stairways						
d. Fire escapes						
e. Partitions						
f. Openings						
g. Other or general						
2. Clear means of egress:						
a. Locked doors	14		1	5	8	400 00
b. Other						
3. Fire alarms and drills						
4. Waste and inflammable materials						
5. Gas jets						
6. Smoking						
7. Sprinklers						
8. Number of occupants						
V. CHILDREN						
1. Under 14 years	4			3	1	20 00
2. From 14 to 16 years:						
a. Certificates	13			10	3	60 00
b. Hours	16			10	6	200 00
c. Prohibited occupations	3	1		2		
VI. WOMEN AND MALE MINORS						
1. Hours	35		(2) 3	13	17	345 00
2. Prohibited occupations						
3. Employment after childbirth						
4. Seats for women						

* Withdrawn cases are given in parentheses.

71

[illegible]

PROSECUTIONS FOR VIOLATIONS OF THE

SUBJECT OF LAW INVOLVED	FIRST INSPECTION DISTRICT				
	RESULTS TO SEPTEMBER 30, 1914				
	Number of cases	Pending	Dismissed, no-quit or withdrawn*	Convicted Sentence suspended	Fines
VII. MISCELLANEOUS					
1. Payment of wages.....	.....	.....	.....	.....	.....
2. Day of rest.....	.....	.....	.....	.....	.....
3. First aid appliances in foundries.....	.....	.....	.....	.....	.....
4. Screens for stairs.....	.....	.....	.....	.....	.....
5. Tenement houses.....	4	.....	.....	3	1
6. Construction of buildings in cities.....	6	.....	.....	4	2
Total.....	120	1	(2) 9	64	44
					\$30 00 50 00 \$1,350 00
A. Proceedings Instituted Prior					
I. ADMINISTRATION					
1. Posting of laws, permits, notices, etc.....	1	.....	1	.....	.....
2. Keeping of records, registers, etc.....	.....	.....	.....	.....	.....
3. Reporting to Department.....	.....	.....	.....	.....	.....
4. Interfering with inspector.....	1	.....	1	.....	.....
II. SANITATION					
1. Toilet facilities:					
a. Water closets.....	23	4	12	5	2
b. Wash rooms.....	1	.....	1	.....	.....
c. Dressing rooms.....	4	.....	.....	4	.....
2. Cleanliness or repair of workrooms, halls, etc.....	4	.....	2	2	.....
3. Ventilation, heat and humidity:					
a. General.....	.....	.....	.....	.....	.....
b. Removal of dust, fumes, etc.....	14	.....	6	8	.....
4. Lighting.....	.....	.....	.....	.....	.....
5. Meals.....	.....	.....	.....	.....	.....
6. Drinking water.....	.....	.....	.....	.....	.....
7. Sanitation of living quarters.....	.....	.....	.....	.....	.....
III. ACCIDENT PREVENTION					
1. Elevators and hoistways.....	48	31	(1) 10	6	.....
2. Machinery (including vats, pans, etc.).....	25	6	10	3	6
3. Switchboards.....	.....	.....	.....	.....	.....
4. Stairs, pits, etc. (including repairs).....	1	.....	1	.....	.....
5. Lighting to prevent accidents.....	10	3	4	3	.....
6. Explosives and blasting (mines, tunnels and quarries).....	.....	.....	.....	.....	.....
7. Hoisting, haulage and machinery (mines, tunnels and quarries).....	.....	.....	.....	.....	.....
8. Timbering, etc. (mines, tunnels and quarries).....	.....	.....	.....	.....	.....
9. Boilers (mines, tunnels and quarries).....	.....	.....	.....	.....	.....
IV. FIRE PROTECTION					
1. Structural conditions:					
a. Number of exits.....	165	104	(4) 45	10	2
b. Doors, doorways and windows.....	.....	.....	.....	.....	.....
c. Stairways.....	44	31	13	.....	.....
d. Fire escapes.....	.....	.....	.....	.....	.....
e. Partitions.....	.....	.....	.....	.....	.....
f. Openings.....	.....	.....	.....	.....	.....
g. Other or general.....	.....	.....	.....	.....	.....
2. Clear means of egress:					
a. Locked doors.....	218	8	30	45	135
b. Other.....	39	5	10	19	5
3. Fire alarms and drills.....	.....	.....	.....	.....	.....
4. Waste and inflammable materials.....	2	1	(1) ..	.....	.....
5. Gas jets.....	.....	.....	.....	.....	.....
6. Smoking.....	.....	.....	.....	.....	.....
7. Sprinklers.....	.....	.....	.....	.....	.....
8. Number of occupants.....	4	4	.....	.....	.....

* Withdrawn cases are given in parentheses.

† Includes one case in which defendant was prosecuted for failure to provide dressing room, failure to provide belt shifters and failure to guard machinery.

LABOR LAW IN FACTORIES—(Continued)

SECOND INSPECTION DISTRICT						TOTAL STATE							Subject number
RESULTS TO SEPTEMBER 30, 1914						RESULTS TO SEPTEMBER 30, 1914							
Number of cases	Pending	Dismissed, acquitted or withdrawn*	Convicted		Fines	Number of cases	Pending	Dismissed, acquitted or withdrawn*	Convicted		Fines		
			Sentence suspended	Fined					Sentence suspended	Fined			

to October 1, 1913—(Concluded)

3	2	(1)....	.....	.....	.....	3	2	(1)....	.....	.....	.....	VII 1
.....
.....
.....	.....	.....	.....	.....	.....	4	.....	.....	3	1	\$20 00	5
.....	.....	.....	.....	.....	.....	6	.....	.....	4	2	50 00	6
28	2	(1) 20	.....	1	\$20 00	153	3	(3) 38	64	45	\$1,270 00	.....

in Current Year

.....	.....	.....	.....	.....	.....	1	.....	1	.....	.....	.....	I 1
.....
.....	.....	.....	.....	.....	.....	1	.....	1	.....	.....	.....	4
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	II
11	4	(1) 5	1	.....	.....	34	8	(1) 17	6	2	\$40 00	1a
3	.....	3	.....	.....	.....	4	.....	4	.....	.....	.....	1b
11	.....	.....	1	.....	.....	15	.....	.....	5	.....	.....	1c
2	1	1	.....	.....	.....	6	1	3	2	.....	.....	2
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3b
.....
.....
6	4	1	.....	1	\$20 00	54	35	(1) 11	6	1	20 00	III 1
113	2	(1) 7	2	1	20 00	138	8	(1) 17	5	7	180 00	2
.....
1	.....	1	.....	.....	.....	1	.....	1	.....	.....	.....	4
1	.....	.....	.....	1	50 00	11	3	5	3	.....	.....	5
.....	.....	.....	.....	.....	.....	1	.....	.....	.....	1	50 00	6
.....
.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	IV
17	8	(1) 8	.....	.....	.....	182	112	(5) 53	10	2	45 00	1b
3	2	(1)....	.....	.....	.....	47	33	(1) 13	.....	.....	.....	1d
.....
4	1	3	.....	.....	.....	4	1	3	.....	.....	.....	1g
9	.....	(1) 2	2	4	85 00	227	8	(1) 32	47	139	\$4,980 00	2a
1	1	.....	.....	.....	.....	40	6	10	19	5	130 00	2b
.....
.....	.....	.....	.....	.....	.....	2	1	(1)....	.....	.....	.....	4
.....
.....
.....	.....	.....	.....	.....	.....	4	4	.....	.....	.....	.....	8

† Includes one case in which the defendant was prosecuted for failure to provide belt shifters and failure to provide rail around elevator shaft; and one case in which defendant was prosecuted for failure to guard machinery, unclean stairs and failure to provide water closet and keep same clean.

‡ Includes one case in which bail of \$100 was forfeited.

PROSECUTIONS FOR VIOLATIONS OF THE

SUBJECT OF LAW INVOLVED	FIRST INSPECTION DISTRICT					
	RESULTS TO SEPTEMBER 30, 1914					
	Number of cases	Pending	Dismissed, acquitted or withdrawn*	Convicted		Fines
Sentence suspended				Fined		
<i>B. Proceedings Instituted</i>						
V. CHILDREN						
1. Under 14 years.....	13	1	3	7	2	\$40 00
2. From 14 to 16 years:						
a. Certificates.....	66	6	5	41	14	295 00
b. Hours.....	147	3	9	68	67	1,475 00
c. Prohibited occupations.....	3			2	1	20 00
VI. WOMEN AND MALE MINORS						
1. Hours.....	219	19	7	105	88	1,900 00
2. Prohibited occupations.....						
3. Employment after childbirth.....						
4. Seats for women.....						
VII. MISCELLANEOUS						
1. Payment of wages.....						
2. Day of rest.....	17	5	2	4	6	120 00
3. First aid appliances in foundries.....						
4. Screens for stairs.....						
5. Tenement houses.....	29	7	2	11	9	180 00
6. Construction of buildings in cities.....	5	1	3	1		
7. Laundries.....	3		3			
8. Physical examination of compressed air workers.....	1	1				
Total.....	1,107	240	(6) 180	344	337	\$9,350 00
Grand total.....	1,327	241	(8) 189	406	381	\$10,600 00

* Withdrawn cases are given in parentheses.

LABOR LAW IN FACTORIES—(Concluded)

SECOND INSPECTION DISTRICT						TOTAL STATE						Subject number
RESULTS TO SEPTEMBER 30, 1914						RESULTS TO SEPTEMBER 30, 1914						
Number of cases	Pending	Dismissed, acquitted or withdrawn *	Convicted		Fines	Number of cases	Pending	Dismissed, acquitted or withdrawn *	Convicted		Fines	
			Sentence suspended	Fined					Sentence suspended	Fined		
19	....	15	4	....	....	32	1	18	11	2	\$40 00	V 1
20	....	17	10	2	\$40 00	95	6	22	51	16	325 00	2a
27	....	3	13	11	250 00	174	3	12	81	78	1,725 00	2b
....	....	....	....	....	....	3	....	....	2	1	30 00	2c
20	1	11	5	3	60 00	239	20	18	110	91	2,020 00	VI 1
....
....
11	2	7	....	2	75 00	11	2	7	....	2	75 00	VII 1
18	4	(4) 2	2	6	120 00	25	9	(4) 4	6	12	240 00	2
....
....	....	....	....	....	....	29	7	2	11	9	180 00	5
....	....	....	....	....	....	5	1	2	1	....	....	6
....	....	....	....	....	....	3	....	3	....	....	....	7
....	....	....	....	....	....	1	1	....	....	....	....	8
198	31	(9) 87	40	31	\$720 00	1,305	271	(15) 267	384	368	\$10,070 00	....
221	33	(10) 116	40	32	\$740 00	1,458	274	(18) 305	448	413	\$11,340 00	....

**CHILDREN FOUND ILLEGALLY EMPLOYED OR FOR WHOM PROOF OF AGE WAS
DEMANDED IN FACTORIES IN YEAR ENDED SEPTEMBER 30, 1914**

FIRST INSPECTION DISTRICT			
Found illegally employed:	Males	Females	Total
Less than 14 years of age (discharged).....	19	5	24
14 to 16 years of age (without certificate).....	51	53	*104
Working illegal hours.....	323	265	588
Total.....	393	323	716
Children for whom proof of age was demanded: †			
Age proven 16.....	12	14	26
Age proven 14 to 16 (certificate secured).....	40	30	70
Age proven less than 14 (discharged).....			
Discharged without proof of age.....	69	69	138
Total.....	121	113	234
SECOND INSPECTION DISTRICT			
Found illegally employed:			
Less than 14 years of age (discharged).....	22	15	37
14 to 16 years of age (without certificate).....	102	89	191
Working illegal hours.....	70	43	113
Total.....	194	147	341
Children for whom proof of age was demanded:			
Age proven 16.....	19	12	31
Age proven 14 to 16 (certificate secured).....	2	2	4
Age proven less than 14 (discharged).....			
Discharged without proof of age.....	19	24	43
Total.....	40	38	78
TOTAL STATE			
Found illegally employed:			
Less than 14 years of age (discharged).....	41	20	61
14 to 16 years of age (discharged).....	153	142	295
Working illegal hours.....	393	308	701
Total.....	587	470	1,057
Children for whom proof of age was demanded:			
Age proven 16.....	31	26	57
Age proven 14 to 16 (certificate secured).....	42	32	74
Age proven less than 14 (discharged).....			
Discharged without proof of age.....	88	93	181
Total.....	161	151	312

NOTE.—The above violations and demands for proof of age in the First District were found in 738 establishments—734 in New York City, 2 in Nassau County, and 2 in Suffolk County. Those in the Second District were found in 247 firms, 63 of which were in Buffalo and 39 in Rochester.

* In these 104 cases the children had secured the required certificates, but they were not on file with employers.

† The total here represents the number of violations found; there were 98 duplications, as follows: Twenty-two cases in which children between 14 and 16 years of age who had unfilled certificates were being employed illegal hours; one case in which a child less than 14 years of age was being employed illegal hours; 30 cases in which children between 14 and 16 years of age without certificates who were being employed illegal hours and for whom (age having been proven) certificates were secured; and 45 cases in which children without certificates were employed illegal hours and were discharged without proof of age.

‡ The total here represents the number of violations found; there were 44 duplications—41 cases in which children between 14 and 16 years of age were being employed illegal hours and 3 cases in which children less than 14 years of age were being employed illegal hours.

§ In 38 cases, the child had secured required certificate but it was not on file with employer; in 11 cases the inspector reported that child secured certificate.

¶ In the first inspection district the Department issues to children upon request certificates of age of more than 16 years upon production of sufficient proof of age. In 1914, the Division of Factory Inspection issued 2,173 such certificates, the evidence of age being school records in 794 cases, birth certificates in 789, baptismal certificates in 158, passports in 323, mother's affidavits in 108 and institution records in 1.

(2) REPORT OF DIVISION OF HOMEWORK INSPECTION

HON. JAMES M. LYNCH, *Commissioner of Labor*:

SIR.—Herewith is respectfully submitted the report for the Division of Homework Inspection for the year ending September 30, 1914. A table attached briefly summarizes the work of the Division.

At the close of the present report year, there were in effect a total of 12,862 licenses, each license representing a separate building, distributed throughout the industrial centers or cities of the State as follows: Manhattan 7,134 licensed houses, Kings 4,252, Bronx 806, Queens 162, Richmond 6, Nassau 1, Albany 89, Buffalo 27, Troy 1, Utica 82, Syracuse 8, Yonkers 1, Lawrence, L. I., 1, Rochester 292. During the year I withdrew by cancellation 2,149 licenses, revoked 87 and cancelled 115 applications for licenses; 3,280 new licenses have been written and 2,331 licensed houses have been visited in search for child labor violations, as a result of which 372 children were found at work in their homes and 588 separate employers or firms were notified of the illegal employment of the children so found.

The fourteen inspectors assigned to this work made a total of 20,695 inspections and other visits of investigation in compliance with the laws' requirements. These figures do not embrace the visits made by the inspectors to enforce the prompt removal of hurtful or unclean conditions found as the result of inspections made in the regular way, or of visits made on complaints.

At the close of the year 1913 the record showed a total of 11,818 outstanding licenses. These figures compared with those given for the present year show a net gain of 1,044 new licenses, notwithstanding the number of licenses withdrawn by cancellation and revocation. This increase is nearly all chargeable to the change recently made in section 100 from specific to general relating to articles made in the home and covered by the law. Articles of clothing and flowers still engage the greater number of home workers. Out of a total of 16,849 persons found at work in the home in the whole state, 15,037 persons were employed on these two classes of articles. Dividing the articles of clothing

into two grades, custom and factory made, we find 8,200 persons at work on the custom grade and 6,197 at work on the factory grade, and 640 workers on flowers. It is also of interest to notice that many and different races are engaged in home work. Thirty different races make up the total of 16,849 home workers reported, and of this number 7,245 belong to the Italian race and 6,621 to the Jewish race.

The change made in the law, which aims to give the Department control over the employment of children in the home, under 16 years of age, is very complicated, and most difficult of enforcement, in fact cannot be enforced as it is written. The responsibility sought to be placed on the factory owner who employs the parent to do the work in the home, cannot be made to work out in fact, as was desired in theory. To make this feature of the law really effective, responsibility should be made to rest directly on the person, parent or guardian having direct control over the child, and who compels or permits the little ones to help with the work. My instructions to the inspectors on this subject left them no choice of action but to report all facts discovered by them when a child was found employed in the home illegally, which they did, but in all cases that were reported, not one contained sufficient elements of fact to warrant counsel to order the prosecution of the employer.

The prompt aid and co-operation we have received from employers generally, in our efforts to check the work of young children in the home, have been of great value and assistance, and are very gratifying to us. Employers have as a general rule notified all their home employees, many having posted notices to that effect, that if children under age were found helping with the work sent into the home, all work would be denied the parent or other person so offending. We have found this method to be effective wherever the rule has been applied. I will not here refer at any length to the number of distressing cases coming under the notice of the field workers, of families where destitution was very apparent, with the head of the family out of work or ill, or of widows with small helpless children to provide for, with no income from any source save that derived by the wife or mother with the help of the child, from this very precarious and ill paid employment. My method of procedure for the illegal

employment of children in the home, is indicated by the following notices, correspondence and reports of investigations by the inspector in the field:

Notice to Employers

GENTLEMEN: Our inspector reports that you are supplying work (neckties) to Mrs. in her living rooms at street; that the said Mrs. employs her daughter, Fannie, 8 years of age, to assist her in this work; that the said Mrs. has been advised by the inspector that it is a violation of the State Child Labor Law for her to force or permit the child to do this work.

You will please take notice that you, as employer, are guilty of a violation of the law if you knowingly furnish articles or materials to the said Mrs., on which the child is to be employed, and that you are subject to arrest therefor, and if found guilty, to a fine of from \$20 to \$50.

I also beg to advise you that it is your duty under this law, to see to it that persons to whom you furnish articles or work to be done by them in their homes, perform this service for you in compliance with the law in every respect.

Yours very truly,

Chief, Division of Homework Inspection.

Replies from Employers

DEAR SIR: Are in receipt of yours of the 3d inst., wherein you state that your inspector reports that Mrs. of street, to whom we are supplying work, allows her daughter Fannie, 8 years old, to assist her in the work.

We have investigated this matter and from what we can learn, the child is not allowed to do any work.

We told Mrs. that it is against the law for any child to do any work and we will stop supplying her with any work should we at any time find out that she is allowing the child to assist her in any way.

Trusting above explains the matter satisfactorily, we remain

Very truly yours,

.....

Department of Labor, N. Y. C.:

DEAR SIR: I do not give out any more work to the people living at street, as per your request.

Yours truly,

.....

DEAR SIR: We received your letter of advising us that Mrs., living at street, employs her daughter, 11 years of age, to assist her in work received from our manufacturing department.

In this connection desire to say that we do not send our work direct to tenements. All our work is contracted by our regular contractors, and this

Mrs. may be working for them. We have instructed all our tailors in this city not to employ Mrs. if she has her daughter assisting her, and assure you that we are always ready to assist your Department in this connection.

Yours truly,

.....

GENTLEMEN: Yours of the to hand and in reply beg to thank you for having called attention to the fact that Mrs. of street, has been violating the law on work supplied at home, in having children under age working on such work.

We have discontinued sending work to this party and will take the same action in every case where persons are supplied by us with work at home, and do not comply with all provisions of the law.

Yours very truly,

.....

Effect of Action on Home Worker

DEAR SIR: On, an inspector from your office stopped my work because she found my daughter, 12 years old, helping me with the work of finishing pants.

The work belonged to of, and because of this report, Mr. now refuses to give me any work at all. My husband has been ill and unable to work for the past two months. We have a family of eight children, all small except one, and I wish to do what I can to help support them.

I promise you that if you will permit Mr. to give me work again, I will not allow any of my young children to help at this work.

Very truly,

.....

Reports of Investigators

My DEAR MR. O'LEARY: In compliance with your request to make special investigations of complaints attached hereto, we beg to report the following:

Investigation No. 1.

Visited Henry street, May 25, 1914, at 11 A. M. Mr. and wife engaged in manufacturing brassieres. No outside help found employed as on a previous visit. Mr. manufactures for peddlers and for his own trade. No children found at work.

Visited again May 26, 1914, at 4:15 P. M. Found his two children aged 12 and 13½ assisting by cutting the threads and cutting buttons. They do not work for remuneration or for a factory, and assist only occasionally when there is much work.

Investigation No. 2.

..... Elizabeth Street.
Visited apartment of Second floor north, at 10 A. M. on May 25, 1914. Mary at home taking care of baby and cleaning house. Mother ill. No work of any kind being done in the house.

Visited P. S. No. 21, Mott street, which Mary attends, and found this to be the first time in two weeks that she had been away from school. From all appearances and from observation no work seems to have been done in the house for many weeks. Did not consider second visit necessary.

Investigation No. 3. Monroe Street.
 Visited just before 12 o'clock May 25, 1914. Mother found at work but no children. Visited premises again at 4:30 P. M. same day. Found Frank aged 12, assisting his mother by sewing buttons on pants. Visited shop of owner of goods at Market street. Name of firm is Frank brought us to the shop. Found a daughter of Mrs. working in the shop, and instructed her as to what her mother must do in order not to violate the law.
 Warned firm that a violation of law would mean prosecution.

Investigation No. 4. Bedford Street.
 Visited Bedford street at 3 P. M. In home of family—the one complained of—no flowers have been done since last visit. Previous employer refuses to furnish any work as house is not licensed. This is apartment No. 10.

Investigation No. 5. Cherry Street.
 Visited premises at 11:30 A. M. May 25, 1914. Found mother, Mrs. at work cutting rugs. No children at work.
 Visited premises again May 26, 1914, at 4 o'clock. Mrs. was not at work and neither were children. They were found playing in the street.

Investigation No. 6. Monroe Street.
 Visited Monroe street, home of Mrs. on May 25, 1914, a little before 12 o'clock noon. Found Mrs. and sister-in-law, who lives in the same apartment, finishing pants. No children found at work.
 Visited premises again about 4:40 P. M. same day. Found Concetta 14½ years old finishing pants. Mother had gone to shop. Claims she works every day between three and four hours, and one-half day on Saturday. Father is dead. Three children in family. Gets \$1.50 every Saturday morning from some organization at Attends P. S. No. 1, Oliver and Catherine streets, and is in 7-a grade. The name of the firm supplying pants is of Division street. Visited this firm May 26, 1914, at 2:30 P. M. Warned them of violation, of children working, and of prosecution in case offense is repeated.

In the same house, apartment No. 16, found Mrs. assisted by two children, aged 14 and 12 years respectively, finishing pants. Girls both attend P. S. No. 1. Father is a shoveler, earning \$8 per week when employed. This is the first week employed for many weeks as he has been ill. Five children in family. Two girls work every day and half day on Saturday. Mother averages about \$5 per week. To make up income, two boarders live with family. They pay ten cents a day each for privilege of bed and laundry. Rental for apartment, \$16.50—four rooms.

Visited employer, at Jefferson street, and warned him of child labor violation, and that a second offense would mean prosecution.

Investigation No. 7. Lewis street.
 Visited premises of family on May 25, at 10:30 A. M. No work of any kind found in house, and girl at school. Visited P. S. 110 on Broome street and found that girl was attending school regularly.
 Visited premises again May 26, 1914, at 3:45 P. M. Found no work of any kind going on. Mother was sitting in yard crocheting and taking care of baby.

We felt that tagging and seizing goods where children were found at work, would hardly have served our purpose, so instead we warned all employers of existing violations.

Respectfully,
 (Signed)

.....
 Factory Inspectors.

This year there has been a marked decline in home work and workers when compared with preceding years, notably this last year. In 1913, 10,985 licensed tenement houses were inspected, in which 20,083 persons were found at work. This year (1914) in 11,950 licensed tenement houses inspected, there was found only 16,893 persons at work. Last year (1913) 1,134 shops (stores, etc.) found in the 10,985 licensed tenement houses gave employment to 3,266 persons including the proprietors, while this year (1914) in the 11,950 licensed tenements we find only 1,015 such shops employing 2,664 persons. Last year (1913) 13,187 living apartments were used for work in the Greater City alone, in which 16,714 persons were found employed. This year (1914) we find in the whole state but 10,564 living apartments where work was going on, and a total of 14,195 persons employed. In 11,950, the houses inspected this year, 142,893 separate apartments were looked into. These figures include the stores and basements used under section 100, and all apartments used for living purposes, but do not include the investigation of 3,823 applications filed for new licenses.

In going over this question year after year, I have often wished this bureau was invested with greater research power. Few subjects connected with industrial occupations in this state, have received so much thought, or have been given such notorious publicity as the subject of factory employment in the tenement house, and no state, city or other place in the United States has had given to it the adverse notoriety accorded to New York City on this subject, and especially the East Side of the city. May I take the liberty to suggest in connection with this thought, the propriety of the Bureau of Labor Statistics of this Department making a complete investigation and survey of this subject in this state. Such an investigation has never been attempted. In my judgment the work would prove of vast public interest if the inquiry embraced all of the ramifications of home work and the industries employing home workers, the number of women, married and single, children under 16 years of age, men, married and single, factory or nonfactory employment in the home, and variety of the articles made, sanitary and other conditions of the premises used, prices paid, earnings of the workers, employment, seasonal

or steady, and the extent in each industry of this form of employment and other matters that were found to be of correlative importance to the inquiry, such as native or foreign born persons engaged in the work, together with the different races to which the workers belong. Such an inquiry should not be narrowed to the tenement house alone, but should embrace home work done in the dwelling house as well. It would be of great industrial interest to all of the people to know what effect homework has on factory employment and factory products. There are societies in this city and state who I feel sure would gladly give the Department all possible aid in conducting an investigation and inquiry of this character.

It affords me much pleasure and satisfaction to be able to report that the aid given me by the inspectors working under my direction has been satisfactory in all respects during the year.

The efficiency of field service would be largely enhanced if more inspectors were added to the staff already assigned to this division of the Department's work.

Respectfully submitted,

DANIEL O'LEARY,
Chief, Division of Homework Inspection.

SUMMARY OF WORK OF HOMEWORK INSPECTORS

	1914	1913	1912	1911	1910
Investigations (including re-investigations) of applications for license.....	3,823	2,322	2,072	1,761	1,835
Inspections of licensed buildings.....	12,199	11,238	12,755	13,402	12,035
Observations.....	2,295	3,141	2,305	1,687	2,125
Inspections of tenement factories.....	484	.....	.....	.....	.....
Tagging cases (exclusive of "assisting") under section 102.....	284	239	302	78	126
Complaints investigated.....	275	*.....	*.....	*.....	*.....
Compliance visits.....	8,917	*.....	*.....	*.....	*.....
Miscellaneous matters.....	12,553	*.....	*.....	*.....	*.....

LICENSING OF TENEMENTS IN YEAR ENDED SEPTEMBER 30, 1914

	New York City	Remainder of State	Total
Licenses outstanding October 1, 1913.....	11,183	†635	11,818
Applications pending October 1, 1913.....	11	.....	11
Applications received.....	3,408	304	3,612
Total.....	3,419	204	3,623
Applications cancelled.....	115	.....	115
Applications pending September 30, 1914.....	100	.....	100
Licenses granted:			
On first investigation.....	2,863	192	3,055
On re-investigation.....	214	11	225
Total.....	3,077	203	3,280
Licenses cancelled.....	1,813	336	2,149
Licenses revoked.....	87	.....	87
Total.....	1,900	336	2,236
Licenses outstanding September 30, 1914.....	12,360	502	12,862

REGISTERS OF OUTSIDE WORKERS

YEAR ENDED SEPTEMBER 30	Notifications issued	Registers filed	Not found or out of business	Reported no outside hands
1914.....	3,407	1,886	154	167
1913.....	1,318	636	47	113
1912.....	4,164	1,976	253	212
1911.....	1,658	718	74	93
1910.....	2,924	1,999	463	262
1909.....	2,947	2,292	258	342
1908.....	2,743	2,101	330	432
1907.....	5,740	1,832	327	576

PERMITS TO FACTORY OWNERS TO SEND WORK TO TENEMENTS

	Year ended September 30, 1914
Number of permits issued.....	1,375
Number revoked.....	3
Thereof reissued.....	.....
Number suspended.....	.....
Thereof reinstated.....	.....
Number outstanding September 30, 1914.....	1,372

* Comparative figures not available.

† Corrected figures instead of 600 as given in report for 1913.

(3) REPORT OF DIVISION OF MERCANTILE INSPECTION

HON. JAMES M. LYNCH, *Commissioner of Labor*:

SIR.—The report of the Division of Mercantile Inspection for the year ending September 30, 1914, is herewith submitted, to which is appended tables showing in detail the work of the Division.

Work of the Division of Mercantile Inspection

At the close of the year we completed the sixth year's work of the Mercantile Division; the work for the past year shows a large increase over that of the previous year. This increase is due to the additional number of inspectors assigned to the Division about the first of January, 1914. Although the force of inspectors was increased the enactment of section 8-a, known as the day-of-rest law, greatly enlarged our responsibility by imposing the duty of enforcing that law in the mercantile establishments throughout the state. This has created for the Division a task almost impossible, with the number of inspectors available for the work.

Complaints

During the fiscal year 1913-1914, we received 913 complaints. Of this number 556 were anonymous and 357 were signed by the persons making the complaints. In every instance where the names and addresses of the persons making the complaints were furnished, the Division communicated with them and they were informed as to the result of our findings. Investigation of complaints shows 447 sustained and 466 not sustained. An examination of the appended table of complaints will show that 259 were in relation to violations of section 8-a, the "Day of rest law"; 130 relate to the employment of children under fourteen years of age, 116 to the employment of children without employment certificates and 82 relate to the hours of employment of children. There were 225 complaints relative to the hours of employment of females over sixteen years of age. The various subjects on which complaints were made are shown in the appended table.

Child Labor

The experience of the Mercantile Division since its organization in 1908 demonstrates that the child labor problem is still with us,

at least this is so as it relates to establishments covered by section 161. Following is a table showing the figures for the past six years:

YEAR	CHILDREN EMPLOYED				
	Inspections made	ILLEGALLY			Total
		Legally	14-16 yrs. without certificate	Under 14 yrs.	
1909.....	7,235	2,949	2,365	756	6,070
1910.....	5,236	2,461	1,660	711	4,832
1911.....	5,282	2,253	1,154	421	3,828
1912.....	8,395	2,823	1,346	756	4,925
1913.....	12,860	4,034	1,820	940	6,794
1914.....	24,838	4,887	1,761	846	7,494
Total.....	63,816	19,407	10,106	4,430	33,943

An examination of these figures shows that while we have reduced the percentage of child labor, and have made headway, the percentage of those illegally employed is still too large. In this connection it might be well to point out that mercantile establishments such as would provide permanent employment, and in which a child would have some chance for advancement, as a rule comply with the law; while the class of mercantile establishments which provide no future for a child, and only employ children because they desire cheap help, are as a rule persistent violators of the law by employing children illegally and working them illegal hours. I have called attention for the past two years to the number of children employed in connection with wine and liquor, grocery and drug stores where malt or alcoholic liquors are for sale. To employ children in such places is in violation of section 486 of the Penal Law. I, therefore, renew my recommendation that the Labor Law be amended to prohibit the employment of children in such places as sell, handle or distribute liquors.

Hours of Labor of Females

When section 161 of the Labor Law applying to the hours of females was amended, extending the provisions to all females, an advance step was taken, one which has provided beneficial results for thousands of female employees, and has incidentally extended its benefits to thousands of male employees working in establishments employing a large number of females because when the

hours of females were reduced, the males also had their hours reduced to the same hours enjoyed by the females. In reducing the hours to nine per day, the merchants seem to have suffered very little inconvenience, and many of the larger stores have changed their opening hour to 9 A. M., having found that a very small percentage of their business was done before that hour. The attitude of the Court of Special Sessions for the First Division of the City of New York, regarding the prohibition of females over twenty-one years of age working after 10 P. M., has caused considerable confusion among employers, as to just what they must do to comply with the law, the court having held in the case of *People vs. Purdy*, in which it was alleged that a female over twenty-one years of age worked during prohibited hours, that the case came clearly within the ruling of the Court of Appeals in the case of *People vs. Williams*, 189 N. Y. 131 (1907). If the Court of Special Sessions is correct in its finding, then section 161 should be amended to read the same as section 93-b, or that section amended to include mercantile and other establishments mentioned in section 161.

Another obstacle to the proper enforcement of section 161, resulted from the amendment to section 236 of the Public Health Law, which became a law April 23, 1914, and which in the opinion of the Attorney-General has practically amended the Labor Law and the day of rest law, as they apply to drug stores. The intention of the amendment to the Public Health Law was to permit the registered pharmacists to escape the provisions of the day of rest law. This amended Health Law made it possible for the druggists to employ women and children as many hours per day as they desire, and every day in the week. The effect of this amendment can be seen in the many drug stores which have taken advantage of its provisions to escape the requirements of the Labor Law regarding the hours of labor of women and children, and the provision of a day of rest for all employees. This condition of affairs has been the cause of much complaint by merchants conducting establishments with which drug stores are in competition, because they are compelled to comply with the provisions of the Labor Law, while the drug store next door or in the neighborhood employs women and children in defiance of the Labor

Law, in consequence of the wording of the amended Public Health Law.

In this connection it must be borne in mind that the drug store as known a few years ago has disappeared, and at present it resembles a department store more than it does a drug store. It is essential that the Health Law be amended so as to give the thousands of women and children who are employed in drug stores the protection of the Labor Law, in order that drug stores shall not have a privilege not enjoyed by other merchants with whom they are in direct competition.

Noon-Day Meal

Many employers have endeavored to defeat the purpose of the law providing forty-five minutes for noon day meal, by refusing to permit the employees to have meal time until after 3 P. M. Other employers connive at defeating the nine-hour day by extending the noon meal time; in some instances they have lengthened the time of the noon meal to four hours, this being for the purpose of employing the females early in the morning and until 10 P. M. This swing in the hours of employment is of no benefit to the employees.

One Day of Rest in Seven

With the enactment of section 8-a providing for one day of rest in seven, the Division of Mercantile Inspection has been responsible for the enforcement of the law as it relates to mercantile establishments in all parts of the state. Because of the limited number of inspectors in this Division, we were compelled to confine our work in the direction of the enforcement of this law, to making systematic inspections in cities and villages of 5,000 or more inhabitants. We succeeded before the end of the fiscal year in inspecting and revisiting all cities and villages of 5,000 or over, in addition to covering many thousands of places operating on Sunday in cities of the first and second class. This section entails a large amount of work on the Division, in addition to the other work required by the Mercantile Law. The present force available for the work of enforcing section 8-a is not adequate to securing a proper compliance with its provisions. In cities of the first and

second class and throughout the state, there are many thousands of mercantile establishments open on Sunday in violation of the Penal Law. It may be interesting to know that the majority of merchants conducting business on Sunday, claim they do not care to open Sundays but are compelled to do so in consequence of their competitors opening on that day. In all instances where the inspectors of the Division have covered mercantile establishments operating on Sunday in violation of section 2147 of the Penal Law, we have furnished a list of such establishments to the police authorities of each city or village where such violations were observed, the police being responsible for the enforcement of the Penal Law. If the provisions of the Penal Law were properly enforced, the present situation would be greatly improved and many thousands of employees would be enjoying one day of rest in seven. If the Penal Law were complied with, there would be a large reduction in the number of mercantile establishments open on Sunday. The mercantile inspectors are compelled to visit these stores in an endeavor to enforce the provisions of section 8-a.

The day of rest law requires the posting of a list of all employees who are required or allowed to work on Sunday, and designating on said list the day of rest for each employee working on Sunday, and also provides that no employee shall be required or allowed to work on the day of rest so designated. Many of the proprietors of mercantile establishments operating on Sunday in violation of the Penal Law refuse to post a schedule or list, for fear they are furnishing proof of violating the Penal Law, but they continue to disregard the provisions of the Penal Law and deliberately violate the provisions of section 8-a providing for one day of rest in seven.

The experience of the Division in the enforcement of this law, shows that the posting of the schedule of employees working on Sunday is most important and the greatest aid in the enforcement of the law. It informs the inspector who is working on Sunday, and shows the designated day of rest of the employees; it also enables the inspector to revisit the place on the day of rest designated, and ascertain whether conditions are in compliance with the law. This law is very beneficial to many employees; especially is this true as it relates to the male employees who do not enjoy the bene-

fits of restricted hours and days per week, as provided for females in section 161, there being no restriction in this law as to the hours of employment for males. Very many mercantile establishments compel their male help to work very long hours, and until the Day-of-rest Law was enacted many of the male employees were compelled to work continuously each day of the week; to such employees this law has been a great benefit. In order that all may enjoy the relief afforded by the enactment of the law, we should require a strict compliance with all its provisions, for only in this way can we hope to secure its enforcement in the establishments of merchants who wilfully disregard the law to deprive their employees of its benefits.

Restaurants

At present restaurant employees do not come within the provisions of the law relative to the hours of labor of females, or the day of rest law. To the casual observer it is very evident that there is no other employment in which males and females are employed, where the hours of labor are so long, and where the employees are compelled to be constantly on their feet. It is admitted that there is no class of work in which so large a percentage of females is employed. The Legislature has recognized that the females working in restaurants should be protected to some extent, by providing in section 17 of the Labor Law that "Every person employing females — as waitresses in a hotel or restaurant shall provide and maintain suitable seats" but by the very nature of their work the employees have no opportunity to use these seats. There seems to be no good reason why the hours of employment of females in restaurants should not be subject to law as in mercantile establishments, and that all those employed in the same should enjoy the benefits of the day of rest law, as they do in other employments. The evil resulting from restaurants being exempt from the provisions of the Labor Law relating to hours and day of rest, is shown in the fact that bakeries and confectionery establishments have added to their business the serving of sandwiches and lunches, and endeavor to escape the provisions of the law by claiming that they are exempt because they are operating a restaurant. This

illustrates the subterfuge to which many employers will resort rather than comply with the law.

Offices

In an office not in or in connection with a mercantile establishment, we are restricted to the enforcement of section 161 as it applies to children only but there are many offices not in or in connection with factories or mercantile establishments, which have a great force of employees, a large proportion of which are females. In places of this character the females often work long hours, and the provisions of section 161 do not protect them. Under its provisions we cannot regulate the hours as we can where the office is in connection with a factory or mercantile establishment. We have also received numerous complaints regarding inadequate toilet accommodations in offices, and we are powerless under the provisions of section 168 and its subdivisions to remedy conditions complained of. The work we have done in connection with offices demonstrates that thousands of office employees work under conditions as injurious as those in factories and mercantile establishments, namely, long hours, over crowding, poor light, insufficient ventilation, improper toilet accommodations and lack of protection in case of fire. I would recommend that all the provisions of article 12 be made applicable to offices, in order to remedy some of the existing conditions.

Wash Rooms and Water Closets

We issued during the year 11,952 orders relative to water closets in mercantile establishments, and 11,480 compliances were secured. This is a large increase over the number of orders issued for the previous year, and was due to the increase in the force of inspectors. The records show a large number of orders issued and a relatively large number of compliances secured. Only in 11 instances were we compelled to prosecute for failure to comply after our final notice had been issued; 5 were for failure to provide water closets, 3 for failure to properly ventilate water closet compartments, and 3 for failure to clean water closets. The large number of orders issued regarding water closets, clearly demonstrates the necessity of giving close attention to the sanitary con-

dition of premises occupied as mercantile establishments. In many stores and buildings occupied by merchants, the owners of the buildings have entirely disregarded the question of health and comfort of occupants and employees of said establishments, by failing to install proper toilet accommodations. In many instances our attention has been directed to the fact that the health of employees has been impaired in consequence of the lack of proper accommodations.

During the year we issued 1,273 orders to provide water closets, and 1,079 compliances were secured. There were 3,587 orders issued to repair water closets and plumbing of same, and 3,523 compliances were secured; 1,000 orders were issued to ventilate water closet compartments to the outer air, and 929 compliances were secured; 765 orders were issued to screen water closets, and 750 compliances secured. In 64 instances water closets were ordered removed because of unsanitary conditions, all of which orders were complied with within the specified time. The amendment made by the Legislature of 1914 to section 168 and article 12 relative to water closets and sanitary conditions, which took effect October 1, 1914, will greatly improve the conditions existing at present. I desire to call attention to the fact that this section as amended does not clearly define the placing of the responsibility relative to the orders issued, consequently we are at a loss to know whether to hold owner or tenant responsible for some conditions found.

Ventilation

The subject of ventilation has been adequately covered in the amendment to the law by the Legislature of 1914; section 168-f seems to be sufficiently broad to improve the existing conditions, when the Industrial Board fixes its standards of ventilation, temperature and humidity as provided by the section. In this connection I wish to say we have asked the Division of Industrial Hygiene to make a sufficient number of tests of the air conditions in mercantile establishments, in order that the Industrial Board shall have a basis for fixing the standards required by the law. As soon as such standards are established, we can proceed to apply the same and remedy the poor conditions existing in many mercantile establishments.

Seats

We received seven complaints regarding failure to provide seats for females, four of which were sustained and three were not sustained. We issued 111 orders to provide seats for the use of females, and secured 99 compliances. Again I wish to renew my recommendation of last year, namely, that section 170 be amended to provide for a seat of standard requirements as follows:

"That the law provide for a seat of standard requirements, eighteen inches from the floor, and when seats are necessary at a greater height that a proper foot rest be provided eighteen inches below the seat; that the minimum size of the seat shall be twelve inches in diameter; when seats with backs can be used, that the back be at a proper angle. Such requirements will do away with many of the poor substitutes for seats in use at present. With seats of this standard and the use thereof permitted, the employees would be in better physical condition to perform their duties."

Prosecutions

On October 1, 1913, there were 55 prosecutions pending in court: 45 in New York City, 7 in Buffalo and 3 in Rochester. All were disposed of during this fiscal year as follows:

- 4 dismissed by magistrate.
- 1 left jurisdiction of the court.
- 3 acquitted by jury.
- 2 forfeited bail.
- 1 case closed on account of death of defendant.
- 34 pleaded guilty, sentence suspended.
- 4 pleaded guilty, fined.
- 3 convicted, sentence suspended.
- 3 convicted, fined.

Fines amounted to \$120, forfeited bail amounted to \$200. In the year 1914 there were 717 cases for prosecution presented to the courts: in Buffalo 55; Rochester 29; Syracuse 17; Utica 4; Schenectady 6; Troy 3; Albany 9; Yonkers 12; New York City 582. The New York cases are divided by boroughs as follows: Manhattan 323; Bronx 91; Brooklyn 152; Queens 14, and Richmond 2. Violations and results of the prosecutions are shown in

the tables appended. Of the 717 cases begun during the year, 678 were disposed of as follows:

- 27 dismissed by magistrate.
- 19 acquitted in Special Sessions.
- 7 acquitted by jury.
- 2 no indictment by grand jury.
- 8 withdrawn.
- 394 pleaded guilty, sentence suspended.
- 99 pleaded guilty, fined.
- 69 convicted, sentence suspended.
- 48 convicted, fined.
- 1 jail sentence.
- 4 left jurisdiction of court.

The amount of fines imposed, \$3,125; adding to this the fines imposed in the cases pending from the year 1913 amounting to \$120, and forfeited bail \$200, makes a total of \$3,445 in fines for the year. In only one case was second offense alleged, which was for employing a child without a certificate. Of the total of 717 cases for the year, 132 were for the failure to comply with the provisions of section 8-a, providing for a day of rest.

Conclusion

The recommendations contained in this report have been submitted after careful consideration of conditions as they exist, and if adopted will, I believe, tend to protect many employees who are deprived of the benefits of the law, and will satisfy many employers who are dissatisfied because their competitors are permitted to do what the law prohibits them from doing. The experience of the Division shows that when the laws apply equally to each merchant, they are accepted with better grace on the part of the merchants, and compliance with the law is more easily secured.

Should the recommendations contained herein meet with your approval, I trust they will be presented to the Legislature in the form of amendments to the law.

Respectfully submitted,

JAMES L. GEERON,
Chief Mercantile Inspector.

WORK OF DIVISION OF MERCANTILE INSPECTION

	YEAR ENDED SEPTEMBER 30		
	1912	1913	1914
Regular inspections:			
Mercantile.....	7,383	10,365	20,370
Office.....	146	855	1,149
Hotel.....	12	27	39
Bowling alleys.....	165	364	343
Places of amusement.....	47	98	103
Barber shops.....		84	63
Shoe polishing stands.....		60	46
Total.....	7,753	11,753	22,113
Special inspections:			
Mercantile.....	620	1,075	4,957
Office.....	6	15	83
Hotel.....		5	2
Bowling alleys.....	8	4	39
Places of amusement.....	8	8	12
Barber shops.....			
Shoe polishing stands.....			10
Total.....	642	1,107	5,103
Investigations:			
Complaints.....	235	253	913
Compliances.....	3,090	4,476	21,472
Total.....	3,325	4,729	22,385

WORK OF MERCANTILE INSPECTORS, BY LOCALITIES

		INVESTIGATIONS OF			
		Regular inspections	Special inspections	Complaints	Compliances
New York City	1914.....	17,273	2,407	771	16,801
	1913.....	9,792	1,017	196	3,690
Buffalo.....	1914.....	984	19	26	450
	1913.....	1,077	39	24	363
Rochester.....	1914.....	821	55	72	377
	1913.....	884	51	33	483
Total, first class cities					
1914.....		19,078	2,481	869	17,628
1913.....		11,753	1,107	253	4,476
Albany.....		550	46	13	604
Schenectady.....		603	36	4	488
Syracuse.....		771	23	26	681
Troy.....		356	32	.....	343
Utica.....		485	41	.....	532
Yonkers.....		270	36	.....	393
Other places*.....		2,406	.....	1	803
Grand Total, 1914.....		24,521	2,665	913	21,472
1913.....		11,753	1,107	253	4,476

* Enforcement of one day of rest in seven law.

ORDERS AND COMPLIANCES

SUBJECT	Orders issued	Orders complied with
I. ADMINISTRATION		
Posting of laws, permits, notices, etc.....	523	409
Keeping of records, registers, etc.....	33	33
II. SANITATION		
Toilet facilities:		
Water closets.....	11,952	11,480
Wash rooms.....	507	450
Cleanliness or repair of workrooms, halls, etc.....	3	3
Meals.....	243	227
III. ACCIDENT PREVENTION		
Elevators and hoistways.....	1	1
Switchboards.....	1	1
V. CHILDREN		
From 14 to 16 years:		
Hours.....	639	635
VI. WOMEN AND MALE MINORS		
Hours.....	2,015	1,855
Seats for women.....	111	99
VII. MISCELLANEOUS		
Day of rest.....	5,486	5,118
Deduction, from salaries, of premiums for sick or death benefit funds....	2	2
Manufacturing and labeling mattresses, etc.....	1	1
Total.....	<u>21,517</u>	<u>20,305</u>

CHILDREN FOUND IN MERCANTILE ESTABLISHMENTS

	14 TO 16 YEARS OF AGE, EMPLOYED —				Under 14 years (illegally em- ployed)				TOTAL UNDER 16			
	LEGALLY		Illegally	employed	1914	1913	1912	1911	1914	1913	1912	1911
	Boys	Girls										
New York City.....	1,832	2,144	1,131	574	5,731	5,671	3,746	2,460				
Bronx.....	142	18	177	105	442	417	113	112				
Brooklyn.....	164	229	279	182	854	1,007	1,191	461				
Manhattan.....	1,572	1,894	643	270	4,379	4,103	2,419	1,829				
Queens.....	2	3	26	13	44	127	17	44				
Richmond.....	2	.....	6	4	12	17	6	4				
Buffalo.....	186	181	137	61	565	581	585	848				
Rochester.....	5	16	85	43	149	542	594	520				
Total — First class cities: 1914..	2,073	2,341	1,353	678	6,445	.....	.....	.....	
1913..	2,062	1,972	1,820	940	.....	6,794	.....	.....		
1912..	1,320	1,503	1,346	756	.....	.....	4,925	.....			
1911..	1,147	1,106	1,154	421	.....	.....	.....	3,828				
Albany.....	55	16	91	23	185	.....	.....	.....	
Schenectady.....	18	3	52	42	115	.....	.....	.....	
Syracuse.....	107	116	110	36	369	.....	.....	.....	
Troy.....	26	20	31	11	88	.....	.....	.....	
Utica.....	59	44	72	47	222	.....	.....	.....	
Yonkers.....	9	.....	52	9	70	.....	.....	.....	
Total — All cities, 1914.....	<u>2,347</u>	<u>2,540</u>	<u>1,761</u>	<u>846</u>	<u>7,494</u>	.....	.....	.....	

PROSECUTIONS UNDER THE MERCANTILE LAW

RESULTS TO SEPTEMBER 30, 1914

SUBJECT OF LAW VIOLATED	No. of cases	Pend- ing	Dis- missed	CONVICTED		Fined	Fines
			acquired or with- drawn*	Sen- tence sus- pended			
(A) Proceedings Instituted Before October 1, 1913							
V. CHILDREN							
Under 14 years.....	15	.....	1	10	4 (a)	\$160
From 14 to 16 years:							
Certificates.....	20	.....	3 (b)	16	1 (a)	100
Hours.....	12	.....	(1c) 2 (d)	8	1	20
VI. WOMEN AND MALE MINORS							
Hours.....	8 (e)	.....	2 (e)	4	2	40
Total.....	55	.....	(1) 8	38	8	\$320
(B) Proceedings Instituted in Current Year							
I. ADMINISTRATION							
Interfering with inspector.....	2	1	.....	1	.....	.....
II. SANITATION							
Toilet facilities:							
Water closets.....	11	.....	(2) 3	4	2	\$45
Wash rooms.....	1	.....	1	.....	.....	.....
V. CHILDREN							
Under 14 years.....	201	10	9	151	31 (f)	610	
From 14 to 16 years:							
Certificates.....	188	8	(2) 19 (g)	132	27	560	
Hours.....	142	1	13 (h)	99	29	675	
VI. WOMEN AND MALE MINORS							
Hours.....	40	1	7	20	12	235	
VII. MISCELLANEOUS							
Day of rest.....	132	18	(4) 7	56	47	1,010	
Total.....	717	39	(8) 59	463	148	\$3,325(i)	
Grand total.....	772	39	(9) 67	501	156	\$3,645	

* Figures in parentheses denote cases withdrawn.

(a) Includes one case in which bail of \$100 was forfeited.

(b) Includes one case in which grand jury failed to indict.

(c) Abated because of death of defendant.

(d) Includes two cases in which grand jury failed to indict.

(e) Includes two cases which were closed during the year ended September 30, 1913, but not so reported until after the end of the year.

(f) Includes one case in which jail sentence was imposed.

(g) Includes three cases in which defendant left jurisdiction of court, and two cases in which grand jury failed to indict.

(h) Includes one case in which defendant left jurisdiction of court.

(i) Includes bail forfeited to the amount of \$200, not itemised above.

DISTRIBUTION OF PROSECUTIONS BY KINDS OF BUSINESS

NUMBER OF PROSECUTIONS FOR
VIOLATION OF LAW CONCERNING —

KIND OF BUSINESS	Children	Women	Sanitation	Day of rest	Total
Groceries.....	138	1	4	13	*157
Meats.....	83	1			84
Fruits and vegetables.....	62		1	5	68
Baked goods.....	35	7		1	43
Confectionery.....	14	6		19	39
Men's clothing and furnishings.....	9	1	1	25	36
Laundries.....	35				35
Bowling alleys.....	29				29
Hats.....	8	6		9	23
Women's wearing apparel.....	5	3		15	23
Drugs.....	13	3		6	22
Dry goods.....	7	8	1	5	21
Shoes.....	6			13	19
Shoe polishing establishments.....	13				13
Delicatessen.....	4	1		6	11
Florists.....	7			4	11
Barber shops.....	9				*10
Places of amusement.....	9				9
Dairies.....	8				8
Wines and liquors.....	5		1		6
Stationery and cigars.....	2	1		2	5
Tobacco.....			1	4	5
Department stores.....	3		2		5
Tailors.....	4				4
Cleaning and dyeing.....	3				3
Corsets and gloves.....	1	1		1	3
Jewelry.....	2				2
Seed and farm tools.....		1			1
Business offices.....	2				2
Three, nine and nineteen-cent stores.....	1			1	2
Messenger companies.....	2				2
Express and delivery companies.....	2				2
Leather goods.....	2				2
Five and ten-cent stores.....	2				2
Woolens.....				1	1
Infants' wear.....				1	1
Hardware.....	1				1
Sporting goods.....	1				1
Wall paper.....	1				1
Trucking.....	1				1
Crockery.....	1				1
Fish markets.....	1				1
Brass goods.....			1		1
Undertakers' supplies.....				1	1
Total.....	531	40	12	132	†717

* Includes one case for interference with inspector.

† Includes two cases for interference with inspector.

COMPLAINTS

SUBJECT		Sustained	Not sustained	Total	Thereof anonymous
II. SANITATION					
Toilet facilities:					
Water closets		34	10	44	31
Cleanliness or repair of workrooms, halls, etc.....		17	22	39	11
Meals.....		3	6	9	6
V. CHILDREN					
Under 14 years.....		44	86	130	83
From 14 to 16 years:					
Certificates		48	68	116	64
Hours.....		42	40	82	56
VI. WOMEN AND MALE MINORS					
Hours.....		112	115	227	144
Seats for women.....		4	3	7	3
VII. MISCELLANEOUS					
Day of rest.....		143	116	259	158
Total					
1914.....		447	466	913	556
1913.....		145	108	253	97
1912.....		95	140	235	77
1911.....		122	100	222	81

(4) REPORT OF DIVISION OF INDUSTRIAL HYGIENE

(A) REPORT OF DIRECTOR

HON. JAMES M. LYNCH, *Commissioner of Labor*:

SIR: I herewith submit report of the Division of Industrial Hygiene for the six months ending September 30, 1914. The Division is an entirely new departure and to New York State belongs the honor of having first established a Division of Industrial Hygiene in connection with enforcement of labor laws. A short history of the development of this organization may properly form a part of this report.

In 1907 New York State was the first in the western hemisphere to establish medical inspection of factories directly in connection with the enforcement of labor laws, and one medical inspector of factories was appointed. The result of surveys and work in this connection demonstrated the necessity of having technical experts attached to the Department of Labor, also the necessity of, and means for, pursuing scientific investigations in order to determine the causes of occupational or industrial poisonings and diseases, the cause of industrial accidents, and the means for minimizing or preventing same.

Through the courtesy of St. Bartholomew's Clinic, the Department in 1911 was the first to establish a laboratory devoted to scientific work in this direction and with clinical connection where individuals could be studied from a medical standpoint. The research work undertaken by the Department in this connection has been recognized and has done much to awaken interest in the questions of ventilation, lighting and industrial poisonings, the apparatus and methods devised by the attaches of the Department becoming recognized and used in scientific work.

In 1912 a mechanical engineer was appointed and special attention was given by him to questions of accident prevention and installation of proper exhaust systems.

Where there was failure to comply with the various sections of the Labor Law, at times it became necessary to prosecute. This brought forth the fact that it was necessary for the Department to have experts other than physicians, for industrial hygiene is

not merely a question of health alone, but of safety as well. There are many factors concerned in this question which require the attention of those having knowledge of medicine, chemistry, engineering and fire prevention. In this connection, the work of one would fit in with the work of another, so that it requires constant conferences of these experts in order to secure proper protection for the worker, in order to safeguard his health, prevent accidents and eliminate the fire hazard. Thus was developed an organization of technically trained experts to make special investigations and advise on these matters. Hence the creation of a Division of Industrial Hygiene.

Organization

The Division was organized during the first part of April, 1914, having as members a chief medical inspector, acting as the director, a chemical engineer, a mechanical engineer, a civil engineer, and an expert on fire prevention. Attached to the Division was the section of medical inspection, which consisted of one male and one female medical inspector. Shortly after there was added one male factory inspector, who is also a physician. There were also attached to the Division twelve factory inspectors of the 4th grade, designated as special investigators, also one confidential agent. At the end of June, 1914, the two tunnel inspectors were directed to report to the director of the Division. In addition to the field force, two plan examiners were appointed to work under the direction of the civil engineer, one examiner being attached to the New York office and one to the Albany office. The office force consisted of a secretary and two stenographers. A vacancy occurred in the position of Mechanical Engineer through the resignation of Mr. Newell on June 1, 1914. A vacancy also occurred through the resignation of the female medical inspector.

A scheme of organization was formulated, which included an outline of the duties of each member of the Division, as well as the medical inspectors and special investigators. Also a plan of assignment of the attaches, a method of recording work of the proposed general activities of the Division with relation to investigation and research work. Copies of the organization plan are attached. Record cards for physical examination of children and

adults were drafted, and the certificate of examination for children for working certificates as used by the health officers was partially revised.

Activities

Owing to the fact that the Division was in an experimental stage, it has been difficult to follow closely or to complete the activities as outlined. This has been occasioned through the necessity of the attaches becoming acquainted with the routine of the procedure and investigating references from the Industrial Board and various divisions and bureaus of the Department. The attendance of members of the Division at meetings of the Industrial Board and special committees occupied considerable time. The Director supervised the organization of the Division and assigned the various references to the technical experts, supervised the work of the medical inspectors with relation to special surveys to be made, investigation of occupational diseases reported to the Department and physical examination of adults and children. In order to determine a proper action upon questions submitted to the Division, the director spent some time in the field, accompanying the various members of the Division on their visits to industrial and mercantile establishments. Accompanied by the different technical experts, visits were made to the Utica, Rochester and Buffalo sub-offices for the purpose of conferring with the supervising factory inspectors.

Mechanical Engineer.—The time of the mechanical engineer was devoted principally to aiding the civil engineer in becoming familiar with routine procedure and approving plans submitted for construction work, the mechanical engineer having previously handled this work. The examination of plans for exhaust system and supervision of testing same upon installation took up much of the time of the mechanical engineer up to the time of his resignation, after which a special investigator supervised the testing of the exhaust systems.

Chemical Engineer.—The chemical engineer devoted his time to analytical work in the laboratory, determining the poisonous or dangerous nature of materials submitted by the various Department attaches. Some time was also spent in field work

supervising the collecting of samples for analyses and the direct analyses of atmospheric conditions in the factories and mercantile establishments for purposes of deciding on ventilation questions, or necessity for mechanical means to remove dust, fumes, gases or vapors. A number of surveys were undertaken under his special direction and a number of explosions were investigated and reported upon. Report of the chemical engineer is herewith attached.

Civil Engineer.—The civil engineer devoted his time principally to the supervision of examination of plans for new buildings and fire escape construction, being confined to the New York branch office.

Fire Prevention Engineer.—The work of the fire prevention engineer has been principally that of an adviser to the Industrial Board and various division chiefs. Questions relating to occupancy, fire escapes, fire exits, danger of fire or explosion, were referred to him, and frequent consultations were necessary with the civil engineer and chairman of the fire hazards committee of the Industrial Board. Some time was spent in consultation with the Industrial Board with reference to the adoption of regulations relating to fireproof and fire resisting material, fire escapes and fire alarm signal systems. A great deal of time was spent in the field in order to properly decide upon questions submitted, and as the territory is a very large one, it is impossible for all matters to receive the prompt attention expected. In the First Factory Inspection District alone there is more than sufficient work for the one fire prevention engineer. It is apparent that the work of the fire prevention engineer is one of an advisory or consulting nature, and the actual amount of work done and real results accomplished cannot be shown by written reports or statistics.

Special Investigators.—In order that the special investigators should become proficient, it was necessary for them to devote some time to learning routine procedure. In rotation they were assigned to aid the civil engineer in examining plans for new construction, also to the mechanical engineer, chemical engineer and fire prevention engineer, so as to become familiar with in-

dustrial conditions and the remedial measures to be applied. During the preliminary surveys which were undertaken, they explained to the proprietors of the places visited the safeguards to be applied for the prevention of accidents and the danger of occupational poisoning, and the best means for securing efficiency through practice of industrial hygiene. The workers were also impressed with the fact that it was their duty to aid by seeing that proper safeguards were used. In many instances the result of their work was to secure better conditions and application of safeguards without the necessity of issuing orders through the Bureau of Inspection, and also to create a more friendly feeling between the factory owners and the Department.

Where an investigator possessed special knowledge of an industry, he was assigned to a technical expert to aid in securing data during the preliminary survey, and also assisted in getting photographs of improved safeguards used to protect the workers.

Medical Inspectors.—The medical inspectors devoted their time to investigation of complaints and references relating to conditions affecting the health of the workers and general sanitation. In the preliminary surveys of special industries they made such physical examinations of adults as were willing, and of children who were found present. In all cases matters relating to female workers and the examination of children were referred to the female medical inspector for attention. Cases of occupational diseases reported to the Department were investigated by the medical inspectors. Many applicants for working papers referred to the department office by the local health department as being over sixteen years of age, but having no proof, were examined by the medical inspectors on request of the chief clerk.

Tunnel Inspectors.—The work of the tunnel inspectors consists in daily observations and inspection of operations in the nature of tunnels, paying especial attention to questions of safety, and where compressed air was used in the process of construction work, seeing that the regulations as promulgated by the Department were fully carried out. A greater part of their work is carried on not by issuing orders, but by means of verbal and personal instruction to contractors and foremen. All accidents reported are investigated and remedial measures recommended. Report of the tunnel inspectors is appended.

A summary of the work of the Division shows as follows:

Investigations	968
Surveys	126
Special inspections	1,056
Prosecutions	31
Complaints investigated	30
Miscellaneous matters	1,027

This does not include the visits made by the technical members of the Division, but merely includes those made by special investigators and medical inspectors. The prosecutions were those begun by special investigators while serving in the Division of Factory Inspection. The special inspections and investigations included a large number of visits made with reference to appeals with relation to occupancy and to fire escapes as second means of exit, occasioned by the new section of the law becoming operative.

Investigations

Preliminary surveys were undertaken and a separate report of each industry so visited will be submitted. The industries visited were as follows:

Under the supervision of the chemical engineer an investigation of the electro-chemical industry was completed. The industry is located almost entirely in Niagara Falls, N. Y. Many of the materials used and products produced are dangerous to the health of the operatives and in order to promulgate proper regulations it becomes necessary to make an intensive survey. This was undertaken in this case. Analyses were made of atmospheric conditions and materials used, and where possible, physical examinations of the workers were made by the medical inspector assisting the chemical engineer in the survey. The report of the chemical engineer and medical inspector showed the necessity of special regulations in this industry, and a need for medical supervision of the workers.

A special investigation was undertaken as to the colored workers in the State of New York, report of which has been submitted. This report is interesting as it was undertaken by a special investigator thoroughly acquainted with the colored population, and shows the large number of workers without the pale of the

labor laws and the necessity of extending the sections of the law to cover occupations wherein the health of the worker is affected by reason of long hours, and in many cases the safety of the public is dependent upon these employees.

An investigation was undertaken into the printing industry by a special investigator assisted by a medical inspector, and shows in many cases a vast improvement in the sanitary conditions of the printing shops.

An investigation of the lead foil industry by a special investigator and medical inspector was completed. This is a small industry and could be listed under the dangerous trades, owing to the exposure of the operatives to lead poison, both men and women being employed. Medical supervision of the workers should also be made obligatory.

Preliminary survey of the manufacture of stogies in Greater New York was undertaken, and showed that the industry was carried on principally in tenement houses and in many cases under unsanitary conditions. In these cases the power of the Department is limited and it is necessary for the various local departments having control of dwellings as well as the Federal Department of the Interior to co-operate with the Department of Labor in order to protect not only the health of the workers engaged in this industry, but the health of the general public.

A preliminary survey of the glass industry was undertaken by a special investigator and medical inspectors. This included both the manufacture of glass, and the art glass industry, which handles the manufactured product. The result of the survey shows the necessity of special regulations covering this industry owing to the danger existing, and the necessity for removing dangerous dust, fumes, gases and vapors generated during the process of manufacture. The principal danger is from lead poisoning, the exception being that of the manufacturer of ordinary bottle glass. The investigation into this industry is being continued.

An investigation was made of the fireworks industry, which is a small one and scattered throughout the State. A large number of young women and girls is employed in certain departments of the fireworks, and owing to the use of poisonous and irritating materials, they are exposed to grave danger as well as dan-

ger of fire and explosion. Again, the character of the work is such as to induce fatigue, as many of the employees are engaged in piece-work. Special regulations should be promulgated with reference to this industry.

A survey of the trolley and railway lines of the State has been begun, in connection with which an investigation of the women employed as ticket agents at night upon one of the elevated lines was undertaken by the female medical inspector. In this connection investigation showed that while the female workers in many instances were content with their lot, they were not being employed under the best sanitary conditions, but in this case the Department has no jurisdiction. This investigation is being continued.

A survey of a number of laundries was undertaken upon request of the Industrial Board. In this case a number of physical examinations were made by the female medical inspector and atmospheric analyses undertaken by the chemical engineer for the purpose of submitting data to the Industrial Board with relation to ventilation.

A number of special investigations were made with reference to explosions in dyeing and cleaning establishments, accidents and poisonings.

Medical Section

The medical section consists of the chief medical inspector, two male medical inspectors and a female medical inspector. There was also assigned to the section a male factory inspector who is likewise a physician. One male medical inspector was assigned to the Albany office to cover the Second Factory Inspection District, the remainder being attached to the New York office. The work of the section was devoted principally to investigating reports of occupational diseases, making physical examinations in connection with the preliminary surveys being undertaken, and reporting upon complaints and references, especially where it was a question of the health of the worker being affected by dangerous or poisonous materials or unsanitary conditions. In this connection work was done for the Divisions of Factory Inspection, Mercantile Inspection, and the Bureau of Industries and Immigration. While there is no authority for the medical inspectors

to make physical examinations of adults, 1,157* examinations of this character were made by the inspectors with the consent of the workers themselves. By this means many cases of industrial poisoning were discovered which had not been seen by a physician and were not reported to the Department, emphasizing in many instances the need of obligatory medical supervision in many industries, and authority for the medical inspectors to report to the Statistical Bureau such cases of industrial poisonings found in the factories. During the course of investigation of occupational diseases reported to the Department, 242† physical examinations were made. In several instances it developed that the cases as reported were not true cases. Whenever possible, the physician or hospital making the report was consulted by the medical inspector, thus creating a better feeling between the physicians and the Department. It is apparent that many of the physicians and most of the hospitals and dispensaries are still unaware of the existence of the section requiring reporting of occupational diseases to this Department.

As a result of the visits of the medical inspectors, the fact is apparent of the large decrease in the employment of children under sixteen years of age in certain industries. This is due undoubtedly to the stringent sections of the law and the authority granted the Department to examine such children and if necessary cancel the working certificate.

Owing to the resignation of the female medical inspector, the special work of investigating women and children in the industries was held in abeyance until the appointment of a new female medical inspector. In order to secure reliable statistical data with relation to occupational diseases, each medical inspector has been assigned to make a personal study and research of a subject relating to occupational disease or poisoning, rendering a report of their findings and recommendations.

The work of the medical section shows the necessity for the medical inspection of factories, but in order to do effective work for the purpose of securing statistics of value, it is necessary to

* These were in the following industries: clothing 62, lead foil 22, tin cans 10, compressed air work 6, laundries 139, cigars 8, glass 682, printing and publishing 161, electro-chemical industries 67.

† These were in the following industries: willow ware 3, lead smelting 17, stationery goods 150, electrical goods 1, brass goods 7, copper refining 1, paints and colors 10, hospital 1, plating and polishing 1, calico print works 16, printing 1, electric power house 2, phosphorus 1, feather pillows 1, women's wear 30.

equip the medical inspectors with a special outfit. I would respectfully recommend that an appropriation be made to provide the medical inspectors with bags and instruments necessary for making complete physical examinations, including blood tests.

Tunnel Inspection

At present the greater part of the tunnel work is confined to the lower end of Manhattan with a few jobs in the Borough of Brooklyn, Greater New York City, so that the two tunnel inspectors spent their time principally in the First Factory Inspection District. So far the law merely covers tunnel work. As pointed out by the tunnel inspectors, there is no jurisdiction where cut-and-cover work is carried on, and yet there is just as much need of supervision and issuance of safety orders as in the tunnel work. Attention is called to the increase of accident reports, but as is pointed out, this is not due to an actual increase in accidents, but a more careful reporting of accidents. It is interesting to note that the number of fatalities have decreased. Attention is also drawn to the fact that while the accidents of compressed air work are apparently high in proportion to the number employed, many of these accidents occur in other work over which the Department has no jurisdiction, emphasizing the need of the Department having authority to inspect cut-and-cover work as well as tunnel work.

Accidents

While the mechanical engineer has supervised the investigation of a certain number of accidents, it had been the purpose to have all accidents reported investigated and tabulated. Owing to the vacancy in the position, this has not been carried out. An examination of the accident reports shows that many of them should have been reported as occupational diseases, namely cases of anthrax and compressed air illness. Where this has occurred, the physicians and employers have been notified and the cases investigated by the medical inspectors. As a result of the visits of the medical inspectors and investigators, it has been shown that the use of goggles or shields is necessary to prevent injuries to the eyes from fine particles and glaring lights, but owing to the ab-

sence of regulation by the Industrial Board covering this, the Inspection Bureau is unable to issue orders.

Ventilation

The subject of general ventilation has been held in abeyance until standards have been set by the Industrial Board, for it would be impossible for the Factory Division to sustain any orders issued under this heading even if based upon the results obtained through investigation of the technical members of the Division of Industrial Hygiene. The question of handling dusts, and in many instances fumes and vapors, has become simplified through the issuance of specifications covering exhaust systems and tests being made after installation. There is still some difficulty in securing compliance where acids are used in pickling and plating.

Fire Prevention

With the operation of the new sections of the law concerning fire exits and occupancy, routine matters occupied so much of the time during the few months that have elapsed, that special research work under the supervision of the fire prevention engineer has been delayed. Where fires and explosions have occurred, an endeavor has been made to ascertain the cause, the fire prevention engineer and chemical engineer working together, and during the preliminary surveys the questions of fire hazard were referred to the fire prevention engineer for consideration. Special investigations are planned for the study of fire hazard in industries where inflammable and explosive materials are used with a view toward making recommendations for minimizing or eliminating such hazards.

Laboratory

While the Department possesses a laboratory at the New York office, it has become necessary to secure facilities in the upper part of the State to expedite investigations. Through the courtesy of the University of Rochester, the Department had the gratuitous use of a small research laboratory in the chemical building. This has been of great aid during the course of the investigation in the electro-chemical industry. Owing to the large

number of fire alarm signal systems sent in for testing, the portion of the laboratory originally intended for an exhibit room has been filled up, and a number of laboratory apparatus had to be removed into the analytical room, thus somewhat hampering the work.

While the expenditure has been small for supplies necessary in laboratory work, it is due to the fact that the work was just beginning. In order to properly carry on research work, a special apparatus for determination of light and dust is necessary, as has been pointed out in the report of the chemical engineer, and it is recommended that an appropriation be made for the purchase of necessary apparatus.

Women and Children

The investigations with relation to women and children in industry are essentially a part of the female medical inspector's duties and a partial start in this direction was made, but owing to the very short service of the female medical inspector, the work could not be carried out as outlined. The fact has been brought forth, as already stated, that children under sixteen years of age are not being employed in the industries as formerly, and the additions to the law have done much to aid in securing of better conditions for female workers. There are, however, many occupations requiring the employment of females, which do not come within the provisions of the Labor Law.

Education

The proper observation of the rules of industrial hygiene cannot be secured by inspection alone and merely by the issuance of orders to provide safeguards on the part of the manufacturer. The inspector, employer, and employee must first be made aware of the existing danger, the proper remedial measures to be applied and the beneficial result obtained. This means a campaign of education. To secure these results, it is necessary to give illustrated talks and lectures and provide photographs of the best safeguards, so that the inspectors may familiarize themselves with the proper remedy and be able to thoroughly explain same. Illustrated talks and lectures hold the interest far more than mere

printed pamphlets, and do much to secure the co-operation of all engaged in industrial pursuits, so that the requirements of the Labor Law are obeyed without the necessity of issuing orders. During the course of the preliminary surveys when visits to factories were made, the policy was followed of explaining to proprietors and workers the existing danger and the best means for the protection of life and health. It was shown that in order to secure these best results, the employee must observe the proper rules of industrial hygiene and use the means provided, as well as the necessity of the employers providing proper safeguards for the protection of the life and health of the employee.

Where efficient safeguards were installed, photographs were taken, and where it became necessary to recommend the installation of proper hygienic measures or safeguards, illustrations were used in order to secure proper compliance. Many manufacturers have recognized the beneficial results of this policy on the part of the Department, and have extended their thanks for assistance rendered, while the employee has received the benefit of immediate action being taken to protect his health. To properly determine existing dangers in the industries, especially where it becomes necessary to resort to scientific or technical means, and in order to secure proper and hygienic surroundings for the worker, it is necessary for the members of the Division to be in constant touch with the work that is being carried on throughout the whole field of industrial hygiene.

Many investigators are engaged in the solution of the various problems relating to industrial hygiene, and to consult with each one individually or visit the various states and provinces where such work is carried on would entail considerable expense and loss of time. During the course of the year many of these officials meet to exchange views and secure best results. The attendance of the members of the Department upon such meetings, presentation of papers and exchange of views is of great benefit not only to the Department and State, but to the employees and employers.

The following conferences were attended by representatives of the Department: The International Association of Factory Inspectors and Commissioners of Labor, American Academy of Medicine, American Medical Association, Canadian Medical As-

sociation, Conference of the Health Officers of the State of New York, Conference under Supervision of the State Labor Department of Pennsylvania, American Association for Labor Legislation, and American Society of Heating and Ventilating Engineers.

A number of illustrated lectures were also given by attaches of the Division in connection with the American Museum of Safety, and other bodies interested in labor conditions.

In order to secure proper compliance with the section requiring the reporting of occupational diseases, and also to awaken the interest of the medical profession to the importance of industrial hygiene, illustrated lectures have been given by the chemical engineer and medical inspectors to physicians and students of several medical schools in the State and the co-operation of the medical schools and a number of hospitals has been secured. I would respectfully recommend that an appropriation be made to enable the members of the Division to attend the conferences of the various scientific and technical bodies.

In order to fully carry out the plan of a campaign of education, the matter was taken up with the public lecture section of the New York City Department of Education some time ago, but was not very favorably received by the assistant director.

The Department possesses a small projection lantern and slides, but much better results could be secured if moving pictures were used. I would respectfully recommend an appropriation be made for the purpose of securing such an apparatus and films. This would be of especial benefit and aid to the fire prevention engineers, not only in their general work, but in a plan of educating the workers in fire prevention.

While the Division as a result of its investigation finds conditions existing which are a menace and recommends the safeguards to be applied, it is impossible to issue orders owing to the absence of rules and regulations. Therefore, I would again respectfully recommend that the Industrial Board formulate rules and regulations to cover the following:

Regulations for a standard of air vitiation, preferably at CO₂ standard, a standard for humidity, and a standard for temperature during the winter months, so that a minimum and maximum heating temperature may be guaranteed in workrooms.

Regulations covering the use of illuminating gas for commercial purposes, such as heating of apparatus, brazing, etc.

Regulations covering the exposure of workers to glaring lights such as in the manufacture of incandescent mantles, or at chemical furnaces, and also the use of powerful lights in doing certain types of work.

Regulations covering the handling of acids and caustics, as in chemical works or processes requiring the use of chemicals.

Regulations for the removal of acid and caustic fumes, from such places as chemical works, storage battery works; in galvanizing, in enamelling household ware, and in electro-plating.

Regulations to cover the removal of dust not created by machinery, such as occurs in the dusting of lithographs, in dry cleaning establishments, in hand bronzing, and in the manufacture of food products, chemical, pharmaceutical, and toilet preparations.

Regulations relating to the natural lighting of workrooms, i. e., the keeping clean of window panes, the removal of obstructions near the windows which may inhibit natural lighting of the rooms, these obstructions usually consisting of partitions, stock, or receptacles for holding stock, also the use of prismatic or ribbed glass.

Regulations covering the use of cellars and basements for manufacturing purposes, as well as those in mercantile establishments.

Regulations as to the sale of food in factories, i. e., relating to the establishment of peddlers' booths and lunch counters in the workrooms.

Prohibition of sleeping, or the presence of beds or bedding in workrooms. This is especially prevalent in the small tenant factories, and is undoubtedly a cause of fires.

Regulations for the protection of workers engaged in oxy-acetylene or electric welding.

Regulations relating to the establishment of "first aid to the injured" packages or equipment in factories.

Rules relating to the employment of women and children on polishing wheels where material other than the baser metals are worked. At present the law permits women and children to operate polishing wheels so long as they do not polish baser metals and iridium.

The including of a number of additional industries as prohibited occupations for women and children.

Regulations as to traps and drainage of fixtures, also receptacles for drinking water supply.

These comprise a number of conditions to which my attention has been called by the inspectors, and which have been observed by me in various visits and investigations. These subjects have also been discussed at length in my annual reports.

I desire to extend my thanks to the attaches of the Division and the members of the office force for their faithful work.

Respectfully submitted,

C. T. GRAHAM-ROGERS,
Director.

PLAN OF ORGANIZATION OF DIVISION OF INDUSTRIAL HYGIENE

Director.—Supervises the entire work of the Division, directs investigations upon request from the Industrial Board, upon request of the various bureaus and divisions of the Department, or upon complaints from other sources; special investigations relating to the questions of health, safety and comfort; direct supervision of work of the medical inspectors; conferences with technical experts of the Division to perfect co-operation and prevent duplication of work; to give testimony as an expert in all legal procedure; conferences with heads of bureaus and divisions for purpose of securing co-operation and preventing duplication of work; periodical trips to sub-offices with technical experts.

Chemical Engineer.—Direct supervision of all laboratory work and field analyses; advisory expert to the Department upon all matters requiring chemical knowledge or where chemical analyses are necessary; investigates chemical industries, and all processes of manufacture where poisons or harmful substances are used, or generated during process of manufacture; recommends antidotes and preventive measures; acts as chemical expert in all legal procedure.

Mechanical Engineer.—Direct supervision of, and advisory expert to the Department upon all matters relating to safe-guarding life and prevention of accidents to workers, as well as the subject of ventilation; passes upon the question of the efficacy of all safeguards and means for ventilation; conducts investigations as to the better prevention of accidents; acts as a technical expert in his line in all legal procedure.

Civil Engineer.—Direct supervision of all plans for construction of new factory buildings and reconstruction of old buildings for factory purposes, and directs the work of the plan examiners; advisory expert to the Department upon all matters of building construction; acts as an expert in his line in all legal procedure.

Fire Prevention Expert.—Direct supervision of all matters pertaining to fire hazard; decides upon the combustibility of material used in factory construction and upon the danger of fire from materials used, and products of manufacture; supervises enforcement of law relating to fire escapes and exits; acts as legal expert in his line in all legal procedure.

Medical Inspectors.—Make physical examinations of children under 16 years of age, and of all others where possible; make special investigations as to the dangers to the health of workers in the industries, or special processes of manufacture; make atmospheric tests; report upon sanitary conditions; female medical inspector to be assigned especially to examination of girls and women in industries where mostly females are employed, with a view to securing data as to the effect of the labor performed.

Special Investigators.—Make visits and secure data for experts, and upon references, complaints, etc., made to the Division; report findings and remedies or safeguards necessary (this applies to the Labor Law and to Industrial Code); special research work for various branches of departmental bureaus, and the Industrial Board.

General Organization.—Technical experts prepare articles and pamphlets upon all questions relating to their special profession; submit yearly report embodying work accomplished, and recommendations for new legislation or amendments to the Industrial Code; all references go through the director

and are assigned by him to the experts; all reports of the attaches of the Division to be submitted to the director; where references are sent directly to the experts by other bureaus and divisions of the Department or outside sources, a carbon copy of reply thereto should be sent to the director for filing.

Assignments.—In New York office one special investigator each to chemical engineer, mechanical engineer, civil engineer, fire prevention expert, and director; one male and one female medical inspector. One investigator at following sub-offices: Albany, Utica, Rochester, Buffalo; one medical inspector to cover the State outside of Greater New York. One investigator special for Italian work. One investigator special for colored laborers. One investigator special for railroad work.

(B) REPORT OF CHEMICAL ENGINEER

Dr. C. T. GRAHAM-ROGERS, *Director, Division of Industrial Hygiene:*

SIR.—I hereby submit my report as chemical engineer of the Division of Industrial Hygiene for the year ending September 30, 1914.

I was appointed as acting chemical engineer on April 3, 1914, and on June 16, 1914, to the position of chemical engineer, and assigned to the Division of Industrial Hygiene.

Having performed for the Department a large amount of chemical, bacteriological and biological work, both in the laboratory in the possession of the Department, and in those whose use was granted to the Department by the St. Bartholomew's Clinic of East 42d street, Manhattan, New York City, also the Rochester University of Rochester, prior to my appointment while connected with the Bureau of Inspection. I was thoroughly familiar with all of the apparatus and methods possessed by the Department, and was therefore in a position to almost immediately begin work along scientific lines for the Division.

The first few weeks were taken up in assisting in organizing the Division, attending to various prosecution cases in connection with my former work with the Department, and placing the laboratory in condition for scientific work, both in it and in the field.

The present laboratory, possessed by the Department, is located on the sixth floor of the sub-office, 381 Fourth avenue. While far from complete for the needs imposed upon it, it contains a considerable number of valuable scientific instruments, expensive chemicals and general chemical apparatus. To successfully carry out certain work along scientific lines, it requires the use of suit-

able additional apparatus, of which a portable photometer, and an electroscope seem the most urgent. These instruments of which the laboratory is in great need are now on the market, together with a suitable apparatus for bacteria work. The expense of carrying on this laboratory in replenishing chemicals, glassware and other minor accessories, has rarely exceeded \$3 per month, excluding the use of gas.

A large number of analytical determinations, both qualitative and quantitative, have been made upon the request of both the Director and physicians attached to the 6th grade.

During the period between April 3rd and September 10th, a large amount of my work consisted in field work, in which 112 visits were made to factories and mercantile establishments for the purpose of making chemical analyses of air where certain volatile substances were determined and found present in harmful quantities, resulting in the issuance of orders with compliances, others of which are pending.

In the absence of a mechanical engineer, a considerable number of problems were placed with me relative to the guarding of machinery, operation of exhaust systems and in being consulted by a number of inspectors at the sub-office regarding the poisonous nature of certain chemicals used in factories, relative to the necessity of issuing orders to provide hot water, individual towels, suitable places in which employees may take their meals, besides passing upon certain ventilating devices and lighting problems.

At the request of a few of the supervising inspectors, also medical inspectors, I photographed a number of machines, guards, sanitary and unsanitary conditions to illustrate the needs along certain lines in the reports they made, besides adding materially to our present collection of safety and sanitary devices, which has proven useful in the past to inspectors in the Department, and others who are desirous of bettering conditions.

A number of investigations have been started to determine the dangerous conditions surrounding workers in various trades, two of which have been completed, namely, the tinfoil industry, which is limited to four factories within the State, and the electro-chemical industry, covering fourteen factories, located at Niagara Falls, N. Y. Investigations of fireworks and laundries, also powder works, have not been completed on account of their syclopean scope

and lack of time, besides the lack of certain apparatus for scientific study.

The pamphlet on the methods of disinfecting places occupied by latrines, trough water closets and school sinks was prepared, besides representing the Department at various fire tests of resisting material, conducted at the testing station, Norman avenue and Russell street, Brooklyn, N. Y.

The investigation of the cause of explosion occurring at the Columbia Dyeing and Cleaning Company of 530 Grand street, Borough of Manhattan, consumed considerable time to determine the cause, which was finally found, resulting in the beginning of an investigation of the cause of similar explosions and fire hazards surrounding the dyeing and cleaning industry besides other places where benzine and volatile liquids are employed in large quantities.

A complete analysis was made of water supplied by the proprietors of factories to their employees in New York, which was alleged to be contaminated, besides analyses of a number of samples of urine of persons whom it was reported to the Department were suffering from plumbism.

Wall and floor dust and dust contained in factory air was analyzed, which could not have been done without a laboratory, such as we now possess.

The appended table indicates the number and character of industries in which various tests were made:

Printing industries (air examinations)	4
Laundries (air and dust examination and general inspection)	27
Mercantile establishments (air examination)	8
Graphite works (air examination and light test)	1
Wood industries (air examination)	1
Chemical industries (air examination and general inspection)	16
Photos taken	60
MISCELLANEOUS SANITARY MATTERS	
Material tested (fire tests)	4
Material for approval	1
DANGEROUS TRADES	
Fireworks concerns	5
Explosions	1
Passing on fireproof material for construction	1
Miscellaneous factory visits for general investigation	40

Respectfully submitted,

JOHN H. VOGT,
Chemical Engineer.

(C) REPORT OF TUNNEL INSPECTORS

DR. C. T. GRAHAM-ROGERS, *Director, Division of Industrial Hygiene:*

SIR.—Herewith is submitted the annual report of tunnel and caisson inspection for the fiscal year ending September 30, 1914. As in the preceeding years, the work in the State was divided geographically into a northern and a southern section, the inspectors alternating their supervision in each district every three months. Due to the gradual reduction of this class of construction work in the counties north of New York City, and the increase of work in Greater New York, the line of division was through 106th street, Manhattan. The northern section therefore comprised all the work in the State and Manhattan north of this line, also Queens; and the southern section, all the work south of this line in Manhattan, also Kings and Richmond counties.

The work consisted of hard rock tunnels driven from deep shafts, some soft ground tunnels, cut and cover subway work and pneumatic caissons for building and bridge foundations. Portions of two of the subway sections were for a time driven with compressed air, but the pressures were low, never reaching more than 16 pounds per square inch. In all, 61 tunnels or sections of tunnels were regularly inspected, an increase of 5 over the preceding year; together with 7 pneumatic caisson contracts, comprising work on 128 caissons, a decrease of 2 such contracts from the preceding year. An average of 14,075 men were employed distributed as shown in the appended tables, a slight increase over the preceding year when 13,805 men were employed.

The yearly total of regular inspections amounted to 147, together with 194 observations and 65 visits on compliance with orders issued. This is to be compared with 125 inspections and 188 observations for the preceding year.

Accidents have been divided into four groups to correspond with the groups into which the construction work is divided, and then tabulated according to causes and length of disability. This new departure entailed a considerable amount of extra work, so arrangements have been made whereby such tabulations of the accidents occurring on each individual contract will be compiled monthly by the Division of Industrial Accidents and Diseases.

Such monthly reports, showing the nature and the general trend of the causes of the accidents on each separate contract, will aid considerably in the accident prevention work of this Department. The number of accidents reported has for the last three years been steadily increasing, although the number of men employed has remained about the same. This is not alarming, for as foretold in the last annual report, this increase was bound to come with the better reporting of accidents by the various firms.

Yet, as the number of reported accidents have steadily increased, the number of fatalities have steadily decreased. The total number of accidents reported was 7,014, divided into periods of disability as follows: 1 day or less, 3,380; over 1 to 14 days, 2,991; 14 days and over, 599; fatal, 44. Following is a comparison with two preceding years:

	1911-12	1912-13	1913-14
Accidents reported.....	4,889	5,719	7,014
Fatalities.....	70	65	44

In the accident tabulations, those accidents with length of disability of 1 day or less have not been divided into causes, because of the fact that only about one half of the firms report such slight accidents. It is obvious that on work of this character there are bound to be a very large number of slight injuries, the reporting of which indifferently, as they ever will be reported, is of no use either statistically or from a preventative standpoint. It is suggested that a rule be established permitting the nonreporting of such accidents in which loss of time is only for the remainder of the shift in which person was injured or less. It will be noticed that in the pneumatic caisson accident tabulations the total number of accidents reported is high when compared with the number of men working in that branch of construction. This is because of the fact that while this Department has jurisdiction only over the compressed air work on these contracts, and therefore reports only the number of men working in or directly in connection with compressed air, the accident reports for the entire contract are received, which always contains other work not under our jurisdiction.

During the year the tunnel inspectors appeared before the New York State Factory Investigating Committee, and submitted briefs suggesting changes in article IX of the Labor Law.

The principal and most needful of these suggestions are to make the entire law specifically applicable to cut and cover subway work; also to limit the amount of voltage of electrical currents to be carried into underground workings.

Respectfully submitted,

GUSTAV WERNER,

PHILIP J. STEERS,

Tunnel Inspectors.

INSPECTION OF TUNNELS AND CAISSONS IN 1914

LOCATION OF WORK	Number of contracts	Number of sections, tunnels, or caissons*	Em- ployees	Inspec- tions	Observa- tions	Com- pliance visits
<i>New York City Subways</i>						
Broadway and Lexington Av...	15	18	6,775	79	69	16
Fifty-ninth St.....	1	.....	.....	.....	1	.....
Seventh Av.....	4	8	2,225	13	19	6
Belmont tunnel reconstruction.	1	1	300	2	1	1
Canal St.....	1	1	100	1	1	.....
Flatbush Av. extensions.....	1	2	500	4	.....	.....
Whitehall-Montague St.....	1	2	60	.....	1	.....
Fourth Av. extension.....	1	2	900	2	8	.....
Total.....	25	35	10,860	91	99	23
<i>New York City Aqueduct</i>						
High Falls.....	1	1	50	.....	2	.....
Cornwall.....	1	1	50	.....	2	.....
Mt. Pleasant.....	1	8	100	.....	4	.....
Philipstown.....	1	1	.....	.....	1	.....
New York City.....	5	5	1,785	28	33	22
Total.....	9	16	1,985	28	42	22
<i>Miscellaneous Tunnel Work</i>						
New York City.....	7	9	755	14	32	15
Rochester.....	1	1	25	1	1	.....
Total.....	8	10	780	15	33	15
<i>Pneumatic Caissons</i>						
New York City.....	6	104	250	7	20	5
Scotia.....	1	24	200	6	.....	.....
Total.....	7	128	450	13	20	5
Grand total.....	49	189	14,075	147	194	65

* Sections on subway work, tunnels on aqueduct and miscellaneous work, and caissons on caisson work.

TUNNEL AND CAISSON ACCIDENTS IN 1914*

CAUSE	DISABILITY OF —			Fatal cases	Total
	1 day or less	Over 1 to 14 days	Over 14 days		
<i>Aqueduct Tunnel Work</i>					
Falling objects.....		120	24	2	.....
Falls.....		81	15	4	.....
Haulage, hoisting, etc.....		75	21	4	.....
Nails.....		46	5	.....	.....
Electrical.....		19	.....	3	.....
Cement burns.....		39	8	.....	.....
Drilling.....		2	.....	.....	.....
Miscellaneous.....		164	35	1	.....
Total.....	247	546	108	14	915
<i>Aqueduct Miscellaneous Work</i>					
Falling or rolling objects.....		73	15	1	.....
Falls.....		25	8	.....	.....
Haulage, hoisting, etc.....		17	5	.....	.....
Nails.....		29	4	.....	.....
Concrete burns.....		12	1	.....	.....
Drilling.....		2	1	.....	.....
Miscellaneous.....		109	20	.....	.....
Total.....	141	267	54	1	463
<i>Subway Work</i>					
Falling or rolling objects.....		799	148	15	.....
Falls.....		203	66	1	.....
Haulage, hoisting, etc.....		203	60	8	.....
Nails.....		151	6	.....	.....
Electrical.....		5	.....	2	.....
Concrete burns.....		8	1	.....	.....
Drilling.....		16	2	.....	.....
Blasting.....		2	3	1	.....
Miscellaneous.....		579	79	.....	.....
Total.....	2,761	1,966	365	27	5,119
<i>Caisson Work</i>					
Falling objects.....		49	15	.....	.....
Falls.....		32	24	.....	.....
Haulage, hoisting, etc.....		30	9	.....	.....
Nails.....		9	1	.....	.....
Concrete burns.....		2	.....	.....	.....
Dropping of caisson.....		4	1	2	.....
Bends.....		7	.....	.....	.....
Miscellaneous.....		79	22	.....	.....
Total.....	231	212	72	2	517
Grand total.....	3,280	2,991	599	44	7,014

* Includes only accidents on work subject to the regulations in the Labor Law.

(D) REPORT OF THE CIVIL ENGINEER

Dr. C. T. GRAHAM-ROGERS, *Director, Division of Industrial Hygiene:*

SIR.— I respectfully submit my report, for the period terminating October 1, 1914, of work carried on under my supervision as civil engineer.

This consisted in advising agents, architects, contractors, and owners, who contemplated filing plans, how the prevailing conditions in properties under their care could be altered to conform to the laws relative to labor. Due consideration was given to economy of design and construction, that would also conform to the municipal ordinances and building codes. Architects who did not understand the meaning and objects of the statutes, submitted tentative sketches showing exits and other features prior to filing plans for new factory buildings, in order to obtain a more decisive understanding of the requirements.

The filing of plans and applications and the action of the plan examiners, of which there are three in the first district, and two in the second district, have been systematized and improved over the more primitive practice in previous quarters. Quicker plan examinations and actions more consistent with the various meanings in different parts of the laws were made. The objections filed when plans and applications were disapproved, were typewritten, in letter form and sent by mail to the applicant. Amendments were thus enabled to be drawn up in the architect's office, and filed as revisions of the plans, complying with the lawful requirements, and immediately thereafter the plans were approved.

Inasmuch as subdivision 5 of section 56 requires the Commissioner of Labor to observe and enforce any lawful municipal ordinance, by-law or regulation not in conflict with the laws relating to factories, the practice was established of forwarding to the various superintendents of buildings having jurisdiction, a copy of the applicant's plans to enable them to take action regarding construction consistent with the duties of their offices.

Below is a tabulated statement showing the plans submitted in accordance with subdivision 3, section 79-d, and a summary of the action taken by the plan examiners:

	First inspection district	Second inspection district	Total
Plans and applications submitted.....	735	155	890
Plans and applications examined.....	735	155	890
Plans and applications approved.....	573	65	638
Plans and applications awaiting reinspection.....		16	16
Plans and applications withdrawn.....	49	17	66
Plans and applications awaiting action of Industrial Board.....	7	3	10
Plans and applications disapproved, awaiting proper amendment	106	54	160

This table shows that approximately 78 per cent of the plans submitted and examined have been approved.

Mr. William J. Picard is in charge of the plan examinations in the second district and the following extracts from his report of work are here inserted:

As practically 90 per cent of the work of this division is accomplished through correspondence, the disposal of the various propositions is considerably retarded, and the writing of lengthy letters of criticisms and suggestions necessitated. Very frequently it is necessary to write the respective supervisors and fire prevention experts requesting a personal visit to a plant before the amendments required are made clear. Owing to this condition we have under compilation a set of standard drawings, graphically illustrating the different types of exits and other features required by the Labor Law. The work along this line has not progressed as rapidly as we would have it, owing to our time and attention being taken up with the examination of plans; however, it is our intention to accomplish this end at earliest possible moment, in order that in suggesting this or that type of exit, a typical sketch can be forwarded with letter of criticisms and suggestions, thereby more vividly setting forth the particular section of law cited. In this connection I might state, we made rough sketches and blue prints of same, showing the different types of exits, winders, fire walls, etc., for the information of inspectors at the recent conference at Syracuse; these proved to be of great assistance in interpreting the different sections of law, and the necessity for standard details was evidenced by the request for additional drawings.

The plans examined in this office related to the following subjects:

NUMBER OF PLANS CONTAINING SAID SUBJECT WHICH WERE—

SUBJECT	Approved	Dis- proved	Pending	Referred to industrial board	With- drawn	Awaiting re-in- spection
Fire towers.....	7			2	2	2
Fireproof doors and windows.....	1			1	1	3
Fire escapes.....	9	7	10	1	6	3
Interior stairways.....	13	5	8	1	3	6
Exterior screened stairways.....	10	2	2		1	1
Horizontal exit.....	6	3				1
Alterations.....	4	3	4		1	
New building.....	13	4	3		3	1
Fire escape alterations.....	5		4		1	
Bakery alterations.....	1					
Wash rooms.....						1
Toilet ventilation.....						1
Elevator covering.....	1					

Of the 65 plans approved we have at hand the estimated cost of 42, or approximately 65 per cent of the total number approved which was as follows:

Fire escapes and alterations to same.....	\$14,062
Exterior enclosed tower stairway.....	22,284
Alterations to buildings.....	12,700
Exterior screened stairways.....	7,755
New buildings.....	380,000
Interior stairways.....	11,006
Total.....	<u>\$447,897</u>

I take this opportunity of offering the following suggestions:

In view of the requirements of section 79-a and the other sections and Industrial Board bulletins pertinent thereto, that the Industrial Board be requested to amend section 79-d, subd. 3 of the Labor Law, by striking out the word "may" in the fourth line of this subdivision relative to the submitting of plans and insert the word "shall". My reason for this suggestion is that many contractors, architects and builders have been and are erecting factory buildings in ignorance of the requirements and provisions of law pertaining to the particular class of buildings affected, and on completion and inspection by an inspector, it is found that numerous changes are necessitated. As you are aware that in the original layout of all buildings, the most essential and primary consideration is the location of stairways, and in view of the requirements of the Labor Law, the number, location and type of these stairways being fixed, it is most essential to the parties concerned, that it be a mandatory provision of law to file plans, as changes can be made on plans at considerable less expense than can a completed building be altered.

The demand for fire escape specifications in printed form is becoming more prevalent every day, and I would suggest that standard specifications be compiled at the earliest possible moment.

In their efforts to design, alter and construct, conforming to the provisions of the factory laws, architects now see a reasoning light as to its intent and efficacy. Recent fires and the attendant catastrophes to human life and to property which imperilled human life served to emphasize the need of the present advanced laws. Their primal antipathies to the new and unaccustomed have worn off, and their education in fire prevention methods considerably advanced. Co-ordination with the plan examiners is now the rule instead of the opposition, and this will result in safe and hygienic conditions in places of employment, conserving the industrial efficiency of thousands of operatives throughout the state.

Yours truly,

PETER C. SPENCE,
Civil Engineer.

(E) REPORT OF THE FIRE PREVENTION ENGINEER

Dr. C. T. GRAHAM-ROGERS, *Director, Division of Industrial Hygiene:*

SIR.—I herewith submit a report of my activities as fire prevention engineer of the Division of Industrial Hygiene, Department of Labor.

On April 15, 1914, I had the honor of being appointed fire prevention engineer, and I spent the first few weeks conferring with different members of the fire hazard committee of the Industrial Board.

Inasmuch as numerous laws relating to fire prevention have been but recently added to the labor laws, I was able through my former experiences to make many valuable suggestions, and to assist in formulating the present laws in relation to fire protection and to make many practical suggestions as to the application of these laws to conditions already existing.

Of particular importance were the regulations in regard to the number of exits required in certain buildings; the enclosure of stairways in fireproof material, and the installation of fire alarm signal apparatus.

I had the opportunity of witnessing some tests of fire resisting materials, made under the auspices of Columbia College, whose testing plant is located at Norman avenue and Russell street, borough of Brooklyn; also similar tests made by the Underwriters Laboratory at Chicago, Ill. These tests were made at the request of various manufacturers of fire resisting material who hoped that, having been able to demonstrate to us the fire resisting property of their products, we would recommend that the Industrial Board place the name of their products on the list of approved materials.

I also observed the burning of a large wharf of the Mallory Steamship Co., and saw the fire resisting property of the Barrett Specification with which the roof of the wharf was covered.

As a member of the Board of Approval, I have attended various meetings at which numerous samples of fire alarm signal apparatus were submitted for approval, and tests made to determine whether they were in compliance with the specifications for alarm signal system already adopted by the Industrial Board.

Field Work:

During the period between May 1st and October 1st the greater part of my work consisted in field work, in which 128 factories located in the fourth, fifth, sixth and seventh subdistricts of the state were visited for the purpose of determining the various fire hazards and the necessity of sustaining the various orders issued by inspectors. In many places the fire hazard was greatly in evidence.

Within my district there are approximately 15,000 factories with about 500,000 employees, so it is apparent but a start in this great and valuable work has been made.

In the majority of factories visited, I am glad to say that the owners were more than willing to meet the Department half way in safeguarding the lives of their employees. A few of them complained of the drastic requirements of the law relative to the number of exits. In my investigation of these factories, I endeavored in every instance to give the manufacturers the benefit of all safe and sane conditions existing and made such recommendations to the Department.

In conclusion I will say that my duties are advisory and active. I assist the chairman of the fire hazard committee of the Industrial Board in inspecting plans on appeal; attend meetings of the Industrial Board; serve as a member of the Board of Approval for fire alarm signal systems; confer with the directors of other bureaus on matters relating to fire hazard, construction and alteration. I inspect numerous factories on appeals from orders, confer with the owners and assist them by making practical suggestions as to the best method of complying with orders, with the least possible cost consistent with safety and at the same time complying strictly with the law. In this way I feel that I have been of service to the Department not only in enforcing the laws and thereby protecting the lives of thousands of industrial workers, but in promoting cordial relations between the Department and various manufacturers.

Respectfully submitted,

JOHN P. QUIGLEY,

Fire Prevention Engineer.

(5) REPORT OF MINE INSPECTOR

HON. JAMES M. LYNCH, *Commissioner of Labor.*:

SIR.— I beg to submit my annual report on safety conditions in New York State mines and quarries, with tables showing accidents to employees during the year ending September 30, 1914.

There were 41 mines and 135 quarries operated during the year, though somewhat irregularly and with reduced force.

SUMMARY OF FIELD WORK FOR THE YEAR:

Mine and quarry inspections.....	143
Factory inspections.....	90
Compliances investigated.....	133
Observations.....	57
Complaints investigated.....	5
Prosecutions.....	7
Special inspections.....	3
Miscellaneous matters.....	49
Violations of chapter 453, referred to State Fire Marshal.....	34

Tables below are arranged so as to show the comparative results for three years and only few explanatory remarks are necessary. The fact that the year passed without a single fatality from explosives and blasting is worthy of notice.

The re-equipment of some of the largest iron mines, for better safety of the employees as well as for the future increase of production, is most satisfactory. Modern hoisting equipments replace the old. Man-cages are introduced and much improvement is in evidence generally, with one exception where the title of the property has been in dispute.

The iron mines employed sixty-one per cent of the miners, and I have much pleasure in referring you to the steady decrease in fatality rates per 1,000 employed per annum in these mines during the last three years, namely: from 6.27 in 1912, to 5.6 in 1913, and to 3.77 in 1914.

The gypsum mining industry, employing 378 men (or twelve and a half per cent), was very unfortunate. Five gypsum miners were fatally injured, two by "haulage" and three by "falls from roof." One "haulage" fatality was caused by an electric locomotive running into the prostrate body of a miner and the other

fatality was caused by the squeezing of the brakeman between the car and the roof while assembling loaded cars from face. The other three fatalities were caused by "falls" from roof upon drillers and muckers who return to work before the roof is thoroughly inspected and made safe. It is pretty difficult for the mine foreman to prevent this entirely, especially when the men are working on tonnage, unless all the firing is done at end of shift, which is not always satisfactory. This high record of fatality is exceptional as records of previous years show.

Quarry fatalities are higher for this reason: In previous years commercial quarries only were inspected and this year one large quarry of a construction corporation was included in my inspections, and accounts for three additional fatalities with only 462 addition to the number of men employed. Without this construction corporation's quarry the rate of fatalities per thousand employed per annum in quarries would have been only 1.82.

NUMBER OF MEN EMPLOYED IN MINES AND QUARRIES IN 1914

Mines.....	Graphite.....	69
	Gypsum.....	378
	Garnet.....	66
	Iron.....	1,855
	Natural cement.....	32
	Pyrites.....	134
	Rock salt.....	376
	Talc.....	96
	Zinc.....	27
Total.....		3,033
Quarries...	Bluestone.....	267
	Granite.....	554
	Limestone.....	2,607
	Marble.....	58
	Millstones.....	6
	Sandstone.....	584
	Slate.....	44
	Spar.....	32
	Shale.....	73
Total.....		4,855
Grand Total.....		7,888

To arrive at these figures a statement was secured from all operators of mines and quarries giving the average number em-

ployed by them monthly during the year, and from these monthly averages an annual average was computed. Fatal accidents given below are those that caused instant death or those that were reported as resulting in death by November 10th. Surface men in separators and crushers are not included as mine and quarry employees.

NUMBER OF ACCIDENTS IN MINES AND QUARRIES IN 1914

CAUSE	Mines	Quarries	Total
<i>Fatal Accidents</i>			
Explosives and blasting.....	.....	.....	.....
Hoisting, haulage and mine machinery.....	4	*3	7
Falls from roof or sides.....	5	2	7
Falling or rolling material handled.....	2	3	5
Electricity.....	.....	.....	.....
Sundries.....	1	†3	4
Total.....	12	11	23
<i>Non-Fatal Accidents</i>			
Explosives and blasting.....	6	41	47
Hoisting, haulage and mine machinery.....	120	129	249
Falls from roof or sides.....	31	26	57
Falling and rolling material handled.....	211	290	501
Electricity.....	8	.....	8
Sundries.....	177	215	392
Total.....	553	701	1,254

PERCENTAGE OF ACCIDENTS DUE TO EACH CLASS OF CAUSES

CAUSE	1914	1913
<i>Fatal Accidents</i>		
Explosives and blasting.....	0.0	23.81
Hoisting, haulage and mine machinery.....	30.44	23.81
Falls from roof or sides.....	30.43	19.05
Falling or rolling material handled.....	21.74	4.75
Electricity.....	0.0	9.52
Sundry causes (fall of persons, etc.).....	17.39	19.05
	100.00	100.00
<i>Non-Fatal Accidents</i>		
Explosives and blasting.....	3.75	3.68
Hoisting, haulage and mine machinery.....	19.86	23.45
Falls from roof or sides.....	4.54	7.47
Falling or rolling material handled.....	39.95	27.65
Electricity.....	.64	0.0
Sundry causes (fall of person, etc.).....	31.26	37.75
	100.00	100.00

* Includes two fatalities in non-commercial quarry.

† Includes one fatality in non-commercial quarry.

COMPARATIVE FIGURES FOR THREE YEARS

Number employed for full time:			
	1914	1913	1912
Mines.....	3,033	3,344	2,919
Quarries.....	4,855	5,156	4,499
Total.....	7,888	8,500	7,418
Fatalities:			
Mines.....	12	13	14
Quarries.....	11	8	14
Total.....	23	21	28
Fatalities in mines and quarries from:			
Explosives and blasting.....		5	7
Hoisting, haulage and mine machinery.....	7	5	10
Falls from roof or sides.....	7	4	8
Falling and rolling material handled.....	5	1	2
Electricity.....		2	1
Sundry causes.....	4	4	
Fatalities per 1,000 employed:			
Mines.....	3.96	3.89	4.8
Quarries.....	2.27	1.55	3.11
Total.....	2.91	2.47	3.77
Graphite.....	0.0	0.0	0.0
Gypsum.....	13.23	2.73	2.59
Garnet.....	0.0	0.0	0.0
Iron.....	3.77	5.6	6.27
Natural cement.....	0.0	0.0	0.0
Pyrites.....	0.0	0.0	0.0
Rock salt.....	0.0	0.0	3.78
Talc.....	0.0	0.0	0.0
Zinc.....	0.0	0.0	0.0

A set of new rules for mines and a set for quarries are much needed. Some of the larger operators are much ahead of the State in this matter and have good rules of their own for the guidance of their officers and employees. These rules are handed to every workman in his native tongue.

Respectfully submitted,
W. W. JONES,
Mine Inspector.

(6) SPECIAL REPORT ON CANNERIES AND DAY OF REST LAW

PREPARED BY BUREAU OF STATISTICS AND INFORMATION

(A) THE LABOR LAW IN CANNERIES IN 1914

The subjects of hours of work of women and employment of children in canneries have for a number of years been before the public and demanded attention by the Legislature in this State. This has been due to the desire of the employers in the industry to secure some modification of, or exemption from, the provisions of the Labor Law on those subjects which apply generally to all factories in the State.

In the course of the long standing controversy over this matter the State has twice made a special investigation of conditions in the industry. One of these investigations was made by the Department of Labor in 1908, and the results were set forth in the annual report of the Bureau of Factory Inspection for that year. The other State investigation was made by the Factory Investigating Commission in 1912, and the results of this are to be found in the second report (1913) of that Commission.

Up to 1912 no modification of the general law as to work of women and children was secured by the canners, but in that year the canners for the first time secured from the Legislature a modification of the general law in their favor in the form of an amendment exempting canneries from all restriction on hours of work of women during the canning season from June 15 to October 15. As a result of the recommendations of the Factory Investigating Commission, however, this sweeping exemption was modified in 1913, leaving the law as it now stands, which, in brief, allows the canners no special exemption on any other subject than the hours of work of women, such being the only exemption ever allowed by law.

It is no part of our purpose here to further review past investigations or legislation, or to offer one more general discussion of the arguments and evidence for or against the allowance of special exemptions to canners. It is proposed rather to review the administrative experience under the present law during the season of 1914. In other words, it is the purpose here to answer the question — How did the present law work in 1914? That, it

may be observed, is now really the main question. For it should be borne in mind that the present law was the result of a very thorough investigation, and that it does as a matter of fact allow the canning industry a very considerable exemption from the general law, as explained below. In other words the presumption is logically in favor of the present law except only as actual experience may demonstrate to the contrary.

Fortunately the Department is in a position to present a fuller account of experience in the administration of the law in canneries for 1914 than for any previous year, because extraordinary efforts were put forth both to secure a thorough enforcement of the law and to afford full information as to results. These efforts included the assignment of a considerable force of inspectors exclusively to cannery inspections with the result that frequent, amounting to nearly daily, visits to a large number of canneries for longer or shorter periods during the canning season were secured. In addition transcripts from time books were procured for the period in which the largest exemption from the general requirements of the law is permitted to canners, as further evidence of the actual results of such exemption.

The reports of inspectors following frequent visits, together with records of prosecution, and the time-book records of canners constitute, therefore, the sources of information for this present review. The former source throws light especially on the question of enforcement of the law, the latter more particularly on the adequacy of the exemption allowed, and these are the two general subjects to which attention is here directed.

ENFORCEMENT OF LAW IN CANNERIES

There is little occasion to note experience relative to other matters in the Labor Law than hours of women and employment of children. It has never been proposed, and certainly there is no ground for considering any such idea, that the requirements of the Labor Law as to sanitation, accident prevention, fire protection, etc., should be modified in favor of the canneries. These matters were covered, of course, in the inspections of canneries in 1914 just as in any other factory, and as a matter of fact, orders relating to sanitation and safety were issued to canneries in 1914 as follows:

SANITATION AND SAFETY ORDERS ISSUED TO CANNERIES IN 1914

SUBJECT OF ORDERS	Number of orders	Number of
		compliances reported up to end of year
SANITATION		
Toilet facilities:		
Water closets.....	125	86
Wash rooms.....	19	15
Dressing rooms.....	56	37
Cleanliness and repair of workrooms, etc.....	16	12
Ventilation, heat and humidity:		
Removal of dust, fumes, etc.....	1	1
Drinking water.....	2	
Total — Sanitation.....	219	151
ACCIDENT PREVENTION		
Elevators and hoistways.....	49	29
Machinery.....	519	378
Switchboards.....	8	5
Stairs, pits, floors, etc.....	25	19
Lighting to prevent accidents.....	2	
Total — Accident prevention.....	603	431
FIRE PROTECTION		
Structural conditions:		
Number of exits.....	3	1
Doors, doorways and windows.....	31	31
Fire escapes.....	1	1
Clear means of egress.....	89	82
Gas jets.....	3	3
Total — Fire protection.....	127	118
Gra total.....	948	700

The figures for compliances represent only such as had been reported by the close of the fiscal year (ended September 30, 1914) in which the orders were issued. It will be seen that upwards of 70 per cent of sanitation and safety orders were reported complied with by that time. No prosecutions for failure to comply with such orders were brought against canners during the year.

While the matters of sanitation and safety in canneries thus required and received attention, they present no situation peculiar to canneries as distinguished from any other factories, and attention may be turned to the two topics, child labor and hours of women, which have been the subject of special controversy in this industry.

Employment of Children in "Sheds"

The particular phase of child labor in canneries which has been a matter of controversy peculiar to their industry as distinguished

from any other factory industry, is the employment of children in cannery "sheds."

Practically every cannery has one or more "sheds," a structure distinct from the factory proper, in which the raw materials (beans and corn chiefly) are prepared for the canning process. Until 1905, it was understood that section 70 of the Labor Law, which forbade absolutely children under 14 years of age, and also children between 14 and 16 without an employment certificate, to work "in or in connection with any factory" was applicable to employment in cannery sheds. The question having been raised in that year, however, an opinion of the Attorney-General was received which, while not entirely decisive, was regarded by the canners as holding that section 70 was not applicable to work in such sheds. This interpretation has been generally upheld by local magistrates and juries before whom prosecutions have been brought by the Department, and it became practically impossible to prevent child labor in cannery sheds.

In 1913, however, upon the recommendation of the Factory Investigating Commission the definition of the word "factory" in section 2 of the Labor Law was amended so as to include "all buildings, sheds, structures or other places used for or in connection" with a factory. At the same time, section 70 was amended so as to prohibit the above mentioned classes of children from working "in or in connection with any factory in this state, or for any factory at any place in this state." The above changes were made with the canning industry specifically in mind. The effect of this amendment was simply to clear away any possible doubt as to whether the Labor Law applied to sheds.

What now was found by the inspectors in 1914 with reference to illegal employment of children in "sheds"? The most striking development found under the amended law was the erection in some cases, notably in two large plants, of tents in addition to the sheds, to which children were sent to snip beans on the theory that a tent would not be included in the definition of a factory as given in section 2 of the Labor Law. To cite a striking instance of such work, on August 10 an inspector discovered 211 children all under 16 years of age and none of whom had employment certificates, under a tent at one cannery. Of these, 180 were under 14 years of age and a few were at work who were under 10 years

of age. Included in the number also, were several under 10 years who were not at work but were simply there with relatives. The names, ages and addresses of each of these 211 children were secured by the inspector. It may be noted here that four separate prosecutions were brought against this firm for such employment of children under 14 years and in each case the complaint was dismissed.

The inspector's comments on the situation in this cannery suggest very pointedly that child labor is largely, if not wholly, resorted to because their labor is essential to get the work done *at the prices paid*. Thus noting the fact that children were stringing about one-third of all the beans the inspector says: "I think if the company raised the price of stringing on all beans that there would be no need of employing children to do the work." And the same inspector in another report upon the same plant says the company does not wish a bad situation as to child labor to appear "but at the same time they want the beans strung and if it were not for public opinion would not care who or what did it so long as they accomplished their end . . . In my opinion, they have decided it is cheaper to pay a fine for the violations than to pay a higher price for stringing beans and get adults to do the work. Owing to the fact that there have been few convictions of canners they think they have an even chance for acquittal with a jury." The period during which children were so employed by this firm included the last week in July and extended throughout the month of August. The bean crop handled by this firm was large.

In the other large plant above alluded to in which children 10 years of age and over were employed snipping beans under a tent, the canner admitted to the inspector that such employment was a violation of law but that the company was willing to take the risk. Three separate prosecutions were brought against this firm for employment of children under 14 and in each case acquittal resulted. Here again the inspector's comment on the situation bears definitely on a contention made by canners that employment of children under 14 years is necessary in order to secure the labor of their parents. For at this plant the inspector states: "Fully one-half of the children employed in the bean tent are unaccompanied by parents or relatives, and this would seem to refute the company's allegation that one of their reasons for tolerating the

presence of the children is to secure the work of their elders, who, it is claimed, would not come to string beans unless they could bring their children with them."

The most serious form of illegal employment of children in sheds is, of course, employment of children under 14 years of age. Taking this as a test of conditions in 1914, the number of violations specifically reported by inspectors totals something less than 300. This figure comprises 180 such children in one, and 50 in the other, of the two firms above noted as using tents as substitutes for sheds, 14 in five other firms, and some part of a group of 48 children between 12 and 16 years of age reported without designation of the number under 14, for another firm. It is frankly recognized that these are only approximate figures and it is quite likely that they may understate the total of children under 14 who worked in the sheds in 1914.* It is believed, however, that the actual number did not very greatly exceed these figures, and at the outside was far below the number of such children in sheds in 1912 when the Factory Investigating Commission found a total of 942.

The above has to do with the extent to which the Child Labor Law was violated. So far as that phase of the matter is concerned, it appears that under the amended law of 1913 and the special inspections of 1914 conditions as to child labor in sheds were much better in the latter year than in any prior season. But experience in endeavoring to enforce the law by prosecution of violators shows results by no means so encouraging. This, however, is brought out in the section below which reviews all the prosecution experience in canneries (both child labor and other cases) of the year.

Hours of Women

It has long been maintained by canners that the peculiar difficulties of their industry entitle them to some exemption from the limitations upon the hours of work of women which apply to factories in general. These difficulties are chiefly as follows: the shortness of the season, the perishable nature of the product,

* This is due to the fact that on their special visits to canneries in 1914 the inspectors did not turn in statements of numbers of persons employed by sex and age as in ordinary inspection work. Furthermore, while ordinarily an inspector returns the names of all children illegally employed, on a special card intended to be a basis for immediate prosecution, in at least one of the canneries where a considerable number of children under 14 was found the inspector simply returned a typical group of seven by name, which would serve for prosecution purposes and gave simply an approximate number for the total. The inspectors, it must be remembered, were bent primarily on law enforcement and not on investigation work.

and the irregularity of ripening of the crops with consequent irregularity in deliveries to the cannery. These difficulties, in connection with an alleged scarcity of female labor, which constitutes a large percentage of the working force, have resulted in violation of the law as to hours which the canners have taken no pains to deny or conceal. No exemption from the general law was allowed, however, until 1912, in which year the maximum hours for women over sixteen years of age in all factories were reduced from 60 to 54 per week. At the same time, the maximum hours permitted on not to exceed three days a week were reduced from 12 to 10 per day. An exemption was granted the canning industry, however, not only from these added restrictions, but from all restrictions upon the hours of labor of women and minors, sixteen years of age and upwards, during the period from June 15 to October 15. This was the first exception to the restrictions as to hours of labor of women in factories made in this State for a particular industry. In 1913, on the recommendation of the State Factory Investigating Commission, which had made an investigation of the canneries in the summer of 1912, the complete exemption made in the previous year for the canning industry was modified in two particulars. In the first place, the weekly hours were limited to 60 and the daily hours to 10 for women eighteen years of age and upwards from June 15 to October 15. Further the newly created Industrial Board was empowered to issue permits for such women to be employed 66 hours per week but not to exceed 12 hours per day during the six weeks from June 25 to August 5. This period was chosen on account of pea canning. These permits were to be issued if, upon application, the Board found that need for a longer work period existed and that longer hours would result in no "serious injury" to the health of the women employed.

Applications for permits were made by canners generally in 1913 and were granted upon the following conditions: that the daily hours of labor of female employees should be posted; that floors where women were employed should be drained free of liquids or, if this could not be done, that slat platforms be provided for such floors; and that women should not be employed more than ten hours per day at work which required continuous standing or while engaged in labeling or packing cans.

Three permits were revoked in 1913 on the ground, in each

case, that females had been employed in excess of twelve hours in one day. There was a quite prevalent attitude on the part of the canners that the statutes restricting the number of hours per day which adult females might be employed and prohibiting their employment after 10 P. M. were unconstitutional.

No change was made in the law concerning labor in canneries in 1914. As in the previous year, the Industrial Board granted, on the same conditions as in 1913, permits for a 66-hour week and a 12-hour day for women 18 years of age and upward during the period from June 25 to August 5. Permits were granted to 69 different firms, operating 101 separate plants. These plants were distributed in 22 counties and 90 localities.

As a result of the special attention paid to cannery inspection in 1914, numerous violations of the conditions upon which the permits were issued were discovered. In 14 plants, females were reported by inspectors to be working in excess of 12 hours per day. Of these, 4 had employed females in excess of 66 hours per week and 1 more than 6 days in the week. A number of violations as to the closing hour for female workers were also discovered. The permit, while granting a 12-hour day, did not alter the provisions of section 77 of the Labor Law which forbids females under 21 years of age from working in factories later than 9 P. M., nor the provisions of section 93-b which forbids women of any age from working later than 10 P. M. Such violations were discovered in 16 of the plants to which permits had been granted. In 10 of these, women over 21 years of age had been employed later than 10 P. M. and in 6, females under 21 years had been employed later than 9 P. M. In 3 of the plants to which permits had been granted females between 16 and 18 years of age were discovered working more than 10 hours a day in violation of section 78 of the Labor Law. The permit carried, of course, no exemption whatever for females under 18 years of age.

The permit specifically provided that the 12-hour day should not apply to females employed in labeling or in packing cans. This was on the ground that such work was not a part of the canning process proper, and that since no question of perishability was involved no extension of the working hours was ad-

visible. Accordingly, the usual hours (9 per day and 54 per week) applied. Violation of these hours on such work was reported in 2 plants to which permits had been granted. Similarly, the condition that slat platforms be provided on all floors which could not be kept entirely free from liquids where females were employed was violated in 3 plants to which permits had been granted. An inspector reported that at one plant which had no permit but in which such platforms had been provided, the females refused to use them and stood on the wet floor. The reason given by one female for not standing upon the platform was that she was afraid of slipping off and twisting her ankle. In another plant, it was reported that such platforms were not practicable because of the constant passing of trucks.

No violations were reported of the condition that females should not be employed in excess of 9 hours per day at work which required continuous standing.

Letters were sent by the Department to 24 of the 101 separate plants to which permits had been granted warning them of one or more of the above reported violations. Two permits were revoked, the ground in each case being the employment of females over 21 years of age after 10 p. m. Letters warning them of the violations were sent on July 23 and 24 respectively. On July 30, reports of continued violations were received and on August 1 the permits were revoked.

While not one of the special conditions of the permit, the subject of the keeping of records of hours worked by women is so important in this connection that it should be noted here. Section 77 of the Labor Law provides that in factories where children, minors or women are employed a printed notice showing the schedule of hours to be worked on each day of the week by each such employee shall be posted on the first day of the week. Provision is made, however, that in factories where owing to the nature of the work it is impossible to fix the hours of labor in advance for the entire week the Commissioner of Labor may grant a permit dispensing with the posting of such schedule on two conditions, first that the hours of labor be posted daily and second that a time book be kept recording the number of hours actually worked each day by each employee, such time book to be open at all times to inspection by the Department. It will be

seen, therefore, that it is of the utmost importance that such time book be kept systematically and accurately, since it constitutes the source of information as to the time worked by employees. A number of canners secured in 1914 the permit dispensing with the posting of weekly hours. Subdivision 3 of section 78 may, perhaps, be interpreted as exempting canners from the weekly posting during the period from June 15 to October 15 without permit. But in any case, where the hours are not posted in advance for the week, the hours must be posted daily in advance and the time book kept.

Numerous failures to keep the time book properly were discovered by the inspectors. Perhaps the chief defect concerns the record of hours of piece work. The objection raised by the canners is that it is extremely difficult to keep such records owing to the fact that piece workers come and go of their own accord. The hours worked are irregular and payment is made on the basis of the quantity of finished product and not on the amount of time worked. The objection most frequently made to posting the hours of labor is that the irregular receipt of raw material makes difficult the posting of hours in advance even for a single day. This irregularity is due to a number of causes, the weather conditions with their effect on the ripening of the crops, the available supply of labor for the picking or gathering, and transportation when gathered to the factory.

In general, it may be said that the canners were lax in regard to the posting of hours and the keeping of time books until their attention was directed to it by the inspectors. This is evidenced not only by the correspondence of the inspectors but by the number of orders issued. During the fiscal year 1914, there were 97 orders issued regarding posting of hours and keeping of records in canneries, a large proportion of which were on these two subjects.

The prosecutions brought to enforce the law concerning hours of women are reviewed in connection with the prosecutions for illegal child labor, below. Before turning to this prosecution experience, however, it is of interest to note here the reasons advanced by canners, as given in many cases to the inspectors, for overtime work of women. The reason most often advanced was that material on hand at the cannery rendered such overtime

necessary. Small fruits, berries and cherries and peas demand immediate handling after ripening in order to prevent serious deterioration in quality or total loss, and it is in connection with these crops that overtime is most often found. The period during which a permit is granted for a 12-hour day and a 66-hour week (June 25 to August 5) covers the time when these crops ripen. Despite this extension, numerous instances of overtime were reported by inspectors. In nine different instances, the canners justified overtime work of women to the inspectors on the ground of the necessity of handling peas which had been delivered and in two other instances a similar reason was alleged for overtime work, in one case on berries and cherries, and in the other case on beans. In seven instances, stoppage of work due to the break down of machinery was the reason assigned for overtime. Other explanations of overtime given by employers were the misunderstanding of the terms of the permit, inexperienced manager and sometimes open defiance of the law. Summaries of these instances taken from the reports of inspectors follow:

Materials on Hand.—(1) Thirty-five women worked 13 hours on Saturday, because peas would not keep; total weekly hours only $48\frac{1}{4}$.

(2) Forty-three women worked over 12 hours up to $16\frac{1}{2}$ hours and after 10 p. m. on each of two Saturdays, because peas would not keep over Sunday; worked till 1:30 a. m. one Sunday.

(3) Worked until 10:15 p. m. although posted hour was 9 p. m.; rain hastened ripening of peas; plant ran following day, Sunday. Superintendent says loss of several thousand dollars would be caused by holding peas over Sunday.

(4) Weather ripened peas at same time although plantings were 15 days apart. Canner tried to keep within the law; time book shows overtime but really not so; some trouble with new machinery caused stoppages of work for which pay was given.

(5) Rush of stock by farmers; posted hours show work after 10 p. m. but are working less than 66 hours per week.

(6) Excessive hours up to $16\frac{3}{4}$ daily and 77 weekly. On Friday, 5 females worked $13\frac{3}{4}$ hours and 35 worked $13\frac{1}{2}$ hours. On the following day, 5 females worked $16\frac{3}{4}$ hours and 35 women worked $16\frac{1}{2}$ hours. Manager says storm on day previous caused

delivery of peas late on Saturday; peas had to be cared for when delivered.

(7) Women worked until 4 A. M. on Sunday and more than 66 hours during the week; berries and cherries would have spoiled.

(8) On Monday, 14 females (2 of them 14-16 years of age) worked till 11:45 P. M. Began 2:30 P. M. and had 1 hour off, 6-7 P. M. At 10 P. M., there were 1,200 pounds of peas on hand. *Men* who had stopped work on the viners and cleaners could have taken the places of these women, according to the inspector. Company claims that several hundred dollars worth of peas have spoiled because of prohibition of work after 10 P. M.

(9) Almost daily violations of hours for females; work after 10 P. M. Company states vinery is 12 miles distant from factory which causes loss of time in deliveries.

(10) Following is an inspector's report which details the difficulties with which a canner is confronted in his efforts to prevent the delivery of materials at a time which will necessitate either overtime work or a loss of the materials.

I visited this place at 9:30 A. M. today, and they were just finishing peas. Mr. ——— stated that he fully believed that he would be through with peas Saturday night, the 1st, but that three loads came in at 9:30 P. M., one hour later than the time he sent his help away after keeping them, on time, awaiting the arrival of the peas, which had been promised him to arrive not later than 6 P. M. Mr. ——— will not run Sunday under any circumstances, and therefore he had to wait until this morning to run the peas off. The grade of the peas suffered from lying so long, and probably the loss is 50 per cent of their possible value as represented Saturday night. If his employees had been in when the peas came Saturday night, Mr. ——— says he surely would have kept men and women until 11 P. M. to finish them; the employees would have been glad to stay, and the profit for him on the peas would have been much greater.

Mr. ——— says that very often the farmer will bring in loads of peas on Saturday, even though the contract reads that he shall not do so except by request of the canner; and if the canner refuses the peas, ten to one the farmer will not raise peas again, and the succeeding year's crop will be that much smaller and the business of the canner correspondingly less. The same is true of a possible refusal of peas brought in late at night,—an unavoidable circumstance frequently, due to farm labor conditions, traction trouble, weather, etc. If the peas are kept and not run off, they heat and become vastly inferior in quality, and sometimes perish and are worthless.

(11) Forty-five women worked until 7:35 P. M. (posted hour 6 P. M.) in excess of 10 hours and after posted hours. Company's reason was that beans would lose their quality if not handled.

Breakdown of Machinery.—(1) Six women were paid for $66\frac{2}{3}$ hours' work during the week; this included one-half day's time lost on account of breakdown of machinery.

(2) Women worked later than 10 p. m., but less than 12 hours in the day, on account of breaking of line shaft.

(3) Women worked $15\frac{1}{4}$ hours; overtime claimed to be due to breakdown in afternoon which caused an "hour's" delay.

(4) Women (38) worked after 10 p. m. and more than 12 hours. Owing to several breakdowns not more than half the time was worked.

(5) Engine breakdown on Saturday. Women started work at 10 p. m. and worked until 4 a. m. Sunday.

(6) Time book shows that women worked $121\frac{1}{2}$ hours. Superintendent says machinery broke causing stoppage of $1\frac{1}{2}$ hours for which women received pay.

(7) Time book shows women worked 15 hours. On reporting for work, found machinery broken which took 3 hours to repair during which time women did not work. Women worked for 12 hours after starting and were paid for 15 hours. All of the women confirm this statement.

Misunderstanding of Permit.—(1) Females 16–18 years old worked later than 9 p. m. and more than 10 hours. President thought permit included all females over 16 years of age. President had issued orders to the superintendent to comply with the law and thought it was being observed.

(2) In week of May 18, females worked in excess of 54 hours; superintendent thought 66-hour week was permitted at any time before August 5.

(3) On June 19, 11 women (over 21 years of age) worked 15 minutes overtime; thought 12-hour day was permitted after June 15.

Defiance of Law.—(1) Posted hours indicate more than 12 hours a day; also Sunday work, latter including 2 females of 15 years and 1 of 14 years. Superintendent says those who worked Sunday will have day off unless plant is "too busy." Company does not deny Sunday work nor work in excess of 12 hours per day. Children 14–16 years of age in excess of 8 hours per day. Company feels safe as to support of courts if prosecutions are

begun. Time keeper says company is trying to make up for last year's losses by "jamming through a big year regardless of the laws." More than 66 hours a week worked. August 18, secretary told inspector that there would be no more overtime or illegal labor until corn ripens "when it may be necessary."

(2) Posted hours indicate 15 hours per day for women over 18 years (6 A. M.—10 P. M.). Superintendent "claims that no female ever started work before 7 A. M. or worked after 9:30 P. M. He admits that two or three times they did exceed 66 hours weekly."

(3) Following are extracts from an inspector's reports upon one cannery.

I saw Mr. ———, president of the company, and he informed me that when they find it necessary to work after nine or ten o'clock in the evening, they draw upon their male employees at their vining stations to come in and work in the factory, thus obviating the necessity of employing females beyond the time set by law. These men are not working full time at the vining stations, and are glad to get the extra money. Mr. ——— says that the company has to pay more money to the men than it would have to pay to women, of course. He stated to me that after this year he expects to employ females over 21 years of age after ten o'clock at night, and risk the consequences. He says that he is not desirous of being caught up again this year, having once been made the defendant in a court action brought by this Department.

The factory itself is in fine sanitary condition; the employees seem to be contented and well pleased with their surroundings and employment; several to whom I spoke assured me that they "had no kick coming," and answered my questions regarding their hours of employment without hesitation. I shall visit the establishment tonight after ten o'clock to see if there are any being employed illegally. The time book does not show any illegal hours.

I saw Mr. ——— here today. He is an old factory inspector, now acting as superintendent here. I looked over the time-clock rolls and the book, and found no account of any work having been done lately by females over ten hours a day.

In reference to the schedule of hours, which I wrote about yesterday,—Mr. ——— says it is impossible to determine the hours to be worked, in advance of their being worked, the exigencies of the business being such that no one can determine when labor is necessary. The supply of raw product is regulated so far as they can regulate it, but it sometimes gets beyond them, and then quick action is necessary.

Upon being questioned, two female employees admitted to me in the presence of the bookkeeper, that they had worked 13¼ hours yesterday, viz., from 8 A. M. to 12 noon; 1 P. M. to 6 P. M.; 7 P. M. to 11:15 P. M., and their statements are borne out by the time clock record. The hours posted declare 7-12, 1-6, 7-10 as the hours to be worked.

Mr. ———, president, showed considerable spirit when he found I had been questioning employees, and informed me that he did not want them questioned, claiming that the corporation admits the violations, and shows the time worked by the clock records, which he says is all the Department should require. Of course, I told him I was within my rights in questioning employees, and told him I expected to continue to do so. Animosity on his part against the Department's methods was very pronounced in his conversation. He objected to being watched as if "they were a bunch of thieves" and to our taking up their time.

Mr. ———, president, says that there is no canner who ever would admit that his canning in the season could be done between the hours of seven in the morning and ten o'clock at night.

I met Inspector ——— here. He took away this firm's special permit, revoked by Commissioner Lynch. Mr. ——— did not seem to care much about this, and inferred that the act would not prevent the company doing overtime if it saw fit to do so, basing his action on necessity, and stating that he was certain that no jury would convict him on any charge in regard to illegal employment such as the company had been doing. He says that if the Labor Department would send its inspectors into the fields to look over the situation there,—the cause, not the effect as represented at the canneries,—the lice blight, the necessity for immediate gathering and preserving,—it would be doing more than it is at present, etc.

(4) Following are extracts from an inspector's report upon a cannery which was packing corn. The time was September and, therefore, outside the period for which the permit granted a 66-hour week. As indicating the attitude of the canner in regard to law observance, it is pertinent, however.

Of the 35 females employed husking, about 25 are not having their time kept. I talked with ———, secretary, about this, and he said he could not promise that it could be done, being practically impossible. He said that it is absolutely necessary to have various entrances to the shed during husking, and that owing to the fact that the company cannot govern the going and coming of the women, it is not possible to keep a correct record of their time. He says that overtime, illegal, on the part of the females will undoubtedly occur later, and that the company will countenance such violations. At present, the corn is not coming in in sufficient quantities to necessitate illegal hours of women to husk it.

Later in the month, the inspector reported as follows upon the same cannery:

This plant is now packing corn and pumpkins, and the yield is not such as to make illegal hours of labor necessary, they say. None was in evidence. I investigated the compliances outstanding against this place and found that no attempt is being made to keep the time of the corn huskers (females) as required by law, and was informed by the secretary that this would not be done.

Inexperienced Manager. (1) At one plant where females were employed later than 10 P. M. and more than 66 hours per week, the explanation given was that the manager was new to such work, and that "lack of knowledge as to general system of handling products was principal cause for overtime."

Prosecutions

There were 42 cannery prosecutions in the year ending September 30, 1914. In 39 of these cases, the result was dismissal or acquittal; in 2 cases, fines of \$20 were imposed; and one case was pending at the close of the year. This case was dismissed soon after the close of the year. In no one of these cases was dismissal or acquittal secured by reason of any lack of evidence. In not one of the 14 cases charging the employment of children under 14 years of age was conviction secured. In 2 of the 16 cases charging illegal employment of children from 14 to 16 years of age conviction was secured, the charge in one of these cases being employment in excess of eight hours per day and in the other employment without certificate. In the 12 cases charging illegal employment of women, no conviction was secured. In 7 of these cases, the charge was employment later than the posted hours, in 4 cases employment in excess of ten hours per day, and in 1 case employment in excess of twelve hours per day.

The 42 prosecutions were brought against six different canneries, 10 against each of two firms, 8 against one firm, 7 against one, 6 against one, and 1 against the remaining firm.

Ten cases against one firm were tried on the same day in the same court. Five of these were prosecutions for the employment of children between 14 and 16 years of age without certificates and five were for the employment of children under 14 years of age. All of the children were engaged in snipping beans. In each case, the defendant pleaded guilty. The justice of the peace before whom the trials were held imposed a fine of \$20 in one case — the minimum penalty — and discharged the defendant in the other nine cases "in view of the fact that defendant pleaded guilty to and was fined on another child labor case on this date and in view of other circumstances."

Ten cases were also brought against one other firm. Eight of these were for the employment of children between 14 and 16

years of age without employment certificates, and two were for the employment of a child under 14 years of age. All the cases were tried before the same justice of the peace. The first eight cases resulted in dismissal on the ground that "there was no proof of the incorporation of the defendant." The request of the Department's counsel for an adjournment in order to produce the certificate of the company's incorporation was denied. In a case charging employment of a child under 14 years of age, dismissal was granted on the ground that the "information and summons did not agree. Court erred in issuing summons which stated that child was under 16 employed without certificate whereas it should have stated that child was under 14." A new case was entered and heard the following week and again dismissed on the ground that "date of return of summons did not conform to code of criminal procedure in that only six days were allowed for return instead of ten." This error of date of return was committed by the court which issued the summons.

Eight actions were instituted against a third firm. The violations occurred during the first week in August when beans were being handled. Three of the cases were for employment of children under 14 years, two of children between 14 and 16 years without certificate, two for employment of females more than 10 hours a day on August 7 (after the expiration of the permit for a 12-hour day), and one for employment of a female more than 12 hours a day on August 4. The cases were all tried before the same city judge in the city court of the city in which the cannery was located. After a jury trial, a verdict of not guilty was rendered in each case. The two cases alleging violation in the employment of children between 14 and 16 years of age without certificates on August 3 were tried on September 21 (an adjournment from September 4, the date originally set, having been agreed upon by consent). The same jury sat in both cases. The defense of the company was that the children had been employed by reason of misrepresentation of the age of one child, and a misunderstanding as to age between the company and the other child. On the following day, the remaining six cases were tried before another jury, and a verdict of not guilty rendered in each instance. The three children under 14 years had been em-

ployed snipping beans in a tent and the defense was that "the tent was not a part of or connected with the factory, the term 'circus tent' being used to describe the place and environment." In the three cases charging the employment of females an illegal number of hours, affidavits as to the actual time worked by each of the women were introduced in evidence by the representative of the Department. Acquittal resulted in each case, however, the defense being that the women were allowed to come and go when they chose and were not *required* to work overtime.

As indicative of the attitude of the community in which the trials were held towards the verdicts of acquittal, the following extract from a local newspaper is significant.

"The action of the jury reflects the general sentiment of the people in this city, which is to the effect that packers of perishable products can not control the weather, consequently are not in position to regulate the amount of products which can come to the factory daily, and as the female employees are not only willing but glad to have the work, all performed under sanitary conditions and such females only performing factory work practically in the outdoor air and for only a short time in the summer, the general feeling is that the company should not be made criminally liable under these conditions. Otherwise, at times, a great amount of raw material would either deteriorate in quality before being canned or be lost entirely.

"As some people express it, it is but little less than an outrage for canning factory interests and employees to be bothered as they now are as a result of legislation which is reasonable as applied to general factory work the year round but which is unreasonable as applied to conditions prevailing in the up-state canning business.

"Several other alleged violations of the labor law have been instituted against the ——— Company in previous years both here and in ———, where the company has a factory, and which cases were also tried before juries, with the same results as in the cases which were tried yesterday and to-day."

Seven prosecutions against one firm for the employment of females after the posted hours resulted in acquittal for the defendant. The violations alleged all occurred on the same day and the trials were held before a justice of the peace. Jury trials

were demanded and in each instance the case was dismissed on the ground that the corporation instead of the superintendent should have been named as defendant. The right to bring action against the corporation later was reserved by the Department, but owing to the fact that the witnesses in the case soon left the plant and returned to their homes in another county, no further action was brought. The inspector who made the original complaint notes, however: "This firm suffered more through the disturbance made by this prosecution than the penalty of a fine would have amounted to."

Six prosecutions were brought against one other firm, 4 charging employment of children under 14 years of age and 2 charging employment of females over 10 hours per day after the expiration of the permit period. The children under 14 were employed snapping beans in a tent, which the company claimed was not a violation of law. In two of these cases, the president of the company was named as defendant and in the other two cases, the foreman in charge of the tent was named. Jury trials were asked for and in each instance the actions were dismissed by the judge in city court. One of these cases was tried before a jury of 6 men. The facts were clearly proved, but at the end of the trial the defense moved that the complaint be dismissed and defendant discharged on the ground that the Department had failed to make out a case and also that the law itself was unconstitutional. After hearing arguments for and against, the judge granted the motion to dismiss. The other three cases were then tried without a jury and each of them was dismissed. In the two cases charging employment of women in excess of 10 hours per day, there was a disagreement on the first trial. At the second trial, the jury rendered a verdict of not guilty in one case. Following is the report made by the Department's counsel upon this trial.

"After a trial of two hours before a jury, which, in my judgment, was as good a jury as I have seen in a Police Court, consisting as it did of two retired merchants, an insurance agent, a banker, a meat market proprietor and a chauffeur, a verdict of 'not guilty' was brought in after the jury's being out ten minutes. In this same case, on August 31st the jury disagreed after being out for two hours.

"There was no defense entered to the action as far as the facts were concerned, the defendant through its Attorney and President frankly admitting the employment of the women in question 12½ hours a day and their defense was one of sympathetic appeal to the jury and justification by the large amount of beans delivered to them on the day in question. The Attorney for the defendant also before the jury argued against the constitutionality of the law, which argument I met in my summing up to no avail."

The other case was not tried and was pending at the end of the fiscal year. On October 7, the case was dismissed at the request of the Department's counsel in view of the unfavorable decision in the previous case, and the prevailing local sentiment. The following extract from a local newspaper indicates the defense of the company as to the employment of children under 14 years of age, and apparently indicates, also, the prevailing attitude of the community towards such employment.

"The contention of the company is that in thus employing these children it is not violation of any law. The rules of the company are that no children are to snip beans in the tent under 10 years of age. Children from 10 to 16 do snipping in the tent and those from 10 to 14 are supposed to be in the care of parents or other older persons. The tent does not open for work until 8 o'clock in the morning and closes at 5 o'clock in the afternoon and the children come and go as they please and such assistance is rendered that the children do not have to handle in any way beans outside of the tent. The children and their parents are desirous of their doing this light work, sitting down and protected from the sun and weather by the tent, and the parents prefer these children to be so employed during part of the vacation time rather than have them playing in the streets as many of them would be, and the company says that the tent is entirely removed from all factory conditions. The company also states that, except for the assistance which is thus rendered by children from 10 to 16 years of age, quite a part of the raw material would either go to waste or materially deteriorate in quality.

"In the discussion of this matter in the past, the company says that many certificates have been presented signed by those best qualified to speak, that the employment of children 10 to 14 years

of age upon this light, open-air work, coming and going as they please, is beneficial rather than otherwise and the earnings as a rule, are used for school books, clothing, etc."

One prosecution was brought for employment of a girl under 16 years of age in excess of 8 hours per day. The trial was held before a justice of the peace. The defendant was found guilty and a fine of \$20 was imposed. It may be noted that the date on which this violation occurred was May 19.

The most notable general fact in connection with these prosecutions is the almost universal result of failure to secure convictions not for lack of evidence of violations, but owing to the successful reliance of the canners upon local sentiment in their favor with which magistrates and juries were in sympathy or to which they bowed. A striking illustration not only of this local opinion but also of the fact that pains are taken to cultivate such sentiment is to be seen in the following reprints of circulars prepared in 1912, but picked up by inspectors in 1914 in the two communities where the most extensive violations of the child labor law were found. The first five of these were found in one place, the remainder in the other.

DEPARTMENT OF EDUCATION, ———, N. Y.

OFFICE OF THE SUPERINTENDENT OF SCHOOLS

———, N. Y., February 26, 1912.

To Whom It May Concern:

This is to certify that I, ———, have been superintendent of the public schools of ———, New York, since the summer of 1909, and that I, ———, have been the attendance officer of such schools during the last seventeen years.

That during the term of my said service, I have always found the ——— of said city willing to co-operate with us in enforcing the Compulsory Education Law and so far as I know or have ever heard no children of the school age have been employed by said company to their knowledge after the beginning of the school year during any year of my relation to said schools as mentioned.

One of the material reasons advanced by parents of many children of the school age as to why the children do not attend school is that such parents are unable to supply their children with proper shoes, clothing and school books, in some instances keeping the children out of school rather than make the necessary application entitling them to the free book privilege.

The money paid by said company for stringing beans each season is of material assistance to a great many families in ——— including the school children in such families and, excepting for the money so earned by

the children under fourteen years of age, many children would be less regular in attendance at school. It would be of serious loss and disadvantage to said children and many others if said children were to be deprived of said source of employment.

I have never heard of any children engaged in bean stringing by said company experiencing physical disadvantage by reason of said employment, and I believe that children from ten to fourteen years of age and even many younger than ten when accompanied by their parents are better off than otherwise by reason of being employed as mentioned.

(Signed) _____,
Superintendent of Schools.

(Signed) _____,
Attendance Officer.

BOARD OF CHARITIES

_____, N. Y., February 26, 1912.

To Whom It May Concern:

This is to certify that I, _____, have been superintendent of charities of the city of _____ for the past six years. An important part of my work among the poor of the city is the investigation of their surroundings, circumstances and means of support. In these investigations I have had frequent occasion to see the condition surrounding the children under fourteen years of age at the _____ bean sheds, of this city, in the stringing of beans, and have yet to hear of any detrimental surroundings or overwork in this industry, and find that the sums earned by the children are in many cases sufficient to cover the narrow margin between the family self-supporting and the family that is a public charge. Should these people be obliged to forego the employment of their children in this manner it would render it necessary for many of them to receive public aid. I would consider any action that interfered with this employment of these children to be a hardship not only to their parents but for the children themselves. The employment of women and children over sixteen years in the factory proper is of still greater help in placing many families among the self-supporting, and I have yet to hear of any injury done them through sometimes long hours of labor.

_____,
Superintendent of Charities.

_____, N. Y., February 26, 1912.

To Whom It May Concern:

This is to certify that I, _____, reside at _____, N. Y., and am city missionary, clerk board charity, probation officer, superintendent boys' club and secretary of the _____ branch of the _____ Humane Society. I have acted in some of said capacities in the city of _____ during the last seventeen years, and have been in the bean string-

ing shed of the _____ Company, in said city, and have observed the women and children working there stringing beans. I consider said employment of children ten to fourteen years of age as being beneficial to them rather than otherwise, and from a pecuniary standpoint the money so earned is of very material assistance to a large number of families in said city in the way of purchasing school books, clothing, shoes and, oftentimes, other family requirements, and excepting for such source of revenue there are many children in the city who would not be able to attend school — or at least as much as they do now — excepting by receiving financial assistance from the charity department of said city. I never have heard of any children engaged in bean stringing by said company experiencing physical disadvantage by reason of said employment.

_____,
City Missionary.

_____, N. Y., February 26, 1912.

To Whom It May Concern:

This is to certify that I, _____, am president of the _____ Society of _____ county. The work of our society is very largely in the prevention of cruelty and abuse of children either by overwork or by improper surroundings and treatment in their homes or in any place where they may be employed. Only children under sixteen years of age come under our jurisdiction and I am informed by our superintendent that for the past six years in which he has been engaged in this work, he has received no complaints of children receiving anything but the best of care while working in the bean sheds of the _____ Company of this city, and an examination of the records of complaints prior to his administration gives no such cases. I believe that the employment of children under the circumstances surrounding them in this factory in the bean sheds, to be of decided advantage to the children involved.

_____,
President _____ Society of _____ County.

BOARD OF HEALTH

OFFICE OF THE HEALTH OFFICER

_____, N. Y., February 26, 1912.

To Whom It May Concern:

This is to certify that I, _____, reside at _____, N. Y., and have been a practicing physician for about fifteen years and during the last ten years of that time have been practicing in _____ and during the last four years of such time have been health officer of the city of _____.

I consider the employment of children ten to fourteen years of age and many under that age, especially when accompanied by their parents, when engaged in bean stringing in the sheds of the _____, during vacation time, as physically beneficial rather than otherwise, and in my experience I know that the money so earned is of material assistance to

children, and the families of which such children are members, in the way of purchasing school books, shoes, clothing, and other necessities. I have never heard of any one who has been employed by said company—either in the factory or in the sheds—as being injured by reason of working in the sheds or as a result of working sometimes long hours in the factory proper.

_____,
Health Officer.

OFFICE OF SUPERINTENDENT OF SCHOOLS

_____, N. Y., February 27, 1912.

To Whom It May Concern:

This is to certify that I, _____, have been superintendent of the public schools of _____ since August 1, 1909.

That during the term of my said service I have always found the _____ of said city willing to co-operate with us in enforcing the Compulsory Educational Law, and so far as I know, or have ever heard, no children of the school age have been employed by said company to their knowledge after the beginning of the school year during any year of my relation to said schools as mentioned.

One of the material reasons advanced by parents of many children of the school age as to why the children do not attend school is that such parents are unable to supply their children with proper shoes, clothing and school books, in some instances keeping the children out of school rather than making requisition either upon the poor or school authorities.

The money paid by said company for stringing beans each season is of material assistance to a great many families in _____, including the school children in such families, and, excepting for the money so earned by the children under fourteen years of age, many children would be less regular in attendance at school. It would be of serious loss and disadvantage to said children and many others if said children were to be deprived of said source of employment.

I have never heard of any children engaged in bean stringing by said company experiencing physical disadvantage by reason of said employment and I believe that children from ten to fourteen years of age are better off than otherwise by reason of being employed as mentioned.

_____,
Superintendent of Schools.

OFFICE OF COMMISSIONER OF CHARITIES

_____, N. Y., February 27, 1912.

To Whom It May Concern:

This is to certify that I, _____, have been superintendent of charities of the city of _____ for the past twelve years. An important part of my work among the poor of the city is the investigation of their surroundings, circumstances and means of support. In these investigations I have had frequent occasion to see the conditions surrounding the children

under fourteen years of age at the _____ bean sheds, of this city, in the stringing of beans, and have yet to hear of any detrimental surroundings or over work in this industry, and find that the sums earned by the children are in many cases sufficient to cover the narrow margin between the family self-supporting and the family that is a public charge. Should these people be obliged to forego the employment of their children in this manner it would render it necessary for many of them to receive public aid. I would consider any action that interfered with this employment of these children to be a hardship not only to their parents but for the children themselves. The employment of women and children over sixteen years in the factory proper, is of still greater help in placing many families among the self-supporting, and have yet to hear of any injury done them through sometimes long hours of labor.

_____,
Commissioner of Charities.

_____, N. Y., February 27, 1912.

To Whom It May Concern:

This is to certify that I, _____, reside at _____, _____, and have been a practicing physician for about thirteen years and during the last eight years of that time have been practicing in _____, and during the last two years of such time have been health officer of the city of _____.

I consider the employment of children ten to fourteen years of age and many under that age, especially when accompanied by their parents, when engaged in bean stringing in the sheds of the _____, during vacation time—as physically beneficial rather than otherwise, and in my experience I know that the money so earned is of material assistance to children, and the families of which such children are members, in the way of purchasing school books, shoes, clothing and other necessities. I have never heard of anyone who has been employed by said company—either in the factory or in the sheds—as being injured by reason of working in the sheds or as a result of working sometimes long hours in the factory proper.

Dr. _____.

_____, N. Y., February 27, 1912.

To Whom It May Concern:

I, _____, certify that I was superintendent for the _____ in 1911, at their plants at _____ and _____, N. Y.; that in the bean stringing sheds there was some active machinery and I was previously informed by one of the inspectors of the State Labor Department that it was a violation of the labor laws to employ in said sheds minors under fourteen years of age; that said sheds were a part of the factory and were treated as such in carrying out the laws as laid down by the Labor Department.

I was controlled accordingly, and did not employ in these sheds in 1911 minors under said age.

As a result, out of a pack totaling about 30,000 cases, more than 50 per cent of same was of poor quality, and when canned were worth much less than cost, and the said entire crop of beans were packed at a material loss, because of our inability to get them strung when in a fresh and crisp state, and there were instances when beans were not put into cans until five or six days after delivery, which fact caused a heavy depreciation in quality and a large proportion of them rusted, and we were obliged to draw part of these, as well as a large quantity which finally decayed, to the dump. The grower received, in this case, full price for his products, and we, as purchasers, suffered the entire loss.

Besides the loss mentioned above, the effect of the delay with stringing caused the small sizes, in which we do realize our profits, to wilt or become dry and unfit for first quality or fancy goods.

Very respectfully,

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ACTUAL USE OF LONGER HOURS UNDER INDUSTRIAL BOARD PERMIT

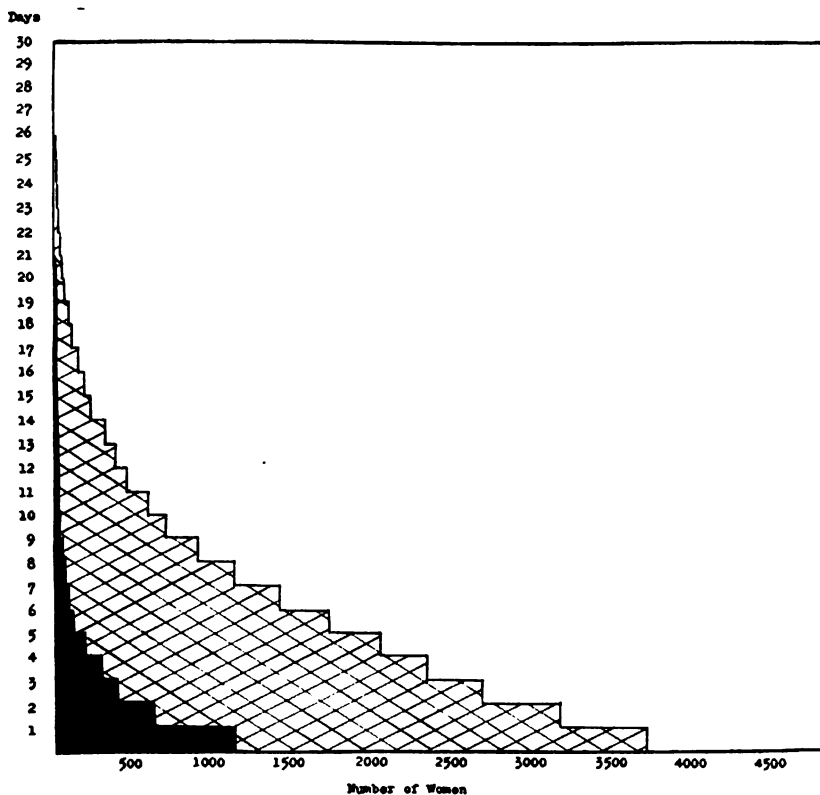
In order to determine the extent to which the permit of the Industrial Board was used the Department of Labor secured from the time-books of the canners to whom the permit was granted the hours in excess of 10 worked by women over 18 years of age during each of the 5 weeks from June 28 to August 1, 1914, inclusive. The relative use of the permit is indicated in Figure 1.

Taking 4,838 women over 18 years of age, the average number per week working in the canneries to whom permits were granted, as the base, the entire figure represents the total number of day's work of over 10 hours each which the permit allowed. The shaded portion of the figure represents the actual number of day's work of over 10 hours each recorded on the time books during the 5 weeks. As indicated in the figure the number of days of over 10 hours each worked by individual women varies greatly. For example, 3,698 women worked over 10 hours on one day of the possible 30 while one woman worked over 10 hours per day on 26 days of the possible 30.

While the permit allows women over 18 years of age to work over 10 hours per day it forbids them to work over 12 hours per day. The black portion of Figure 1 shows the extent to which these permits were abused or violated by working women over 12 hours per day. Again great variation is shown in the work of individual

women; 1,126 women worked more than 12 hours per day on one day of the 30, while one woman worked over 12 hours per day on 21 of the 30 days. The total number of day's work of over 12 hours each was 3,067.

FIGURE 1



The number of women who worked consecutive days of over 10 hours each is as follows:

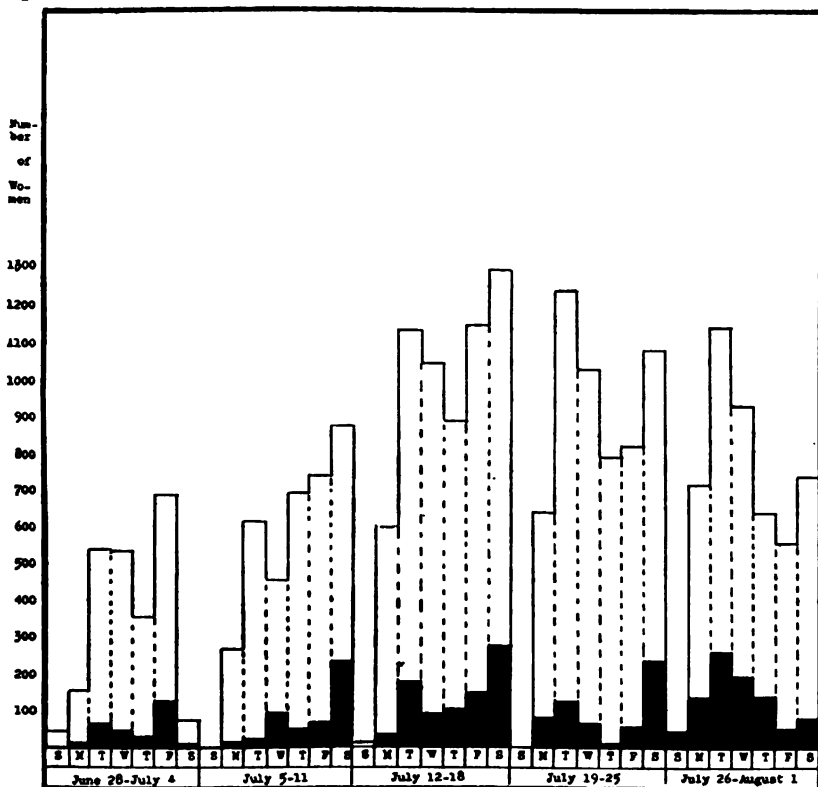
CONSECUTIVE DAYS WORKED IN EXCESS OF TEN HOURS PER DAY

NUMBER OF WOMEN WHO WORKED CONSECUTIVE DAYS OF OVER 10 HOURS —

NUMBER OF CONSECUTIVE DAYS WORKED	Once	Twice	3 times	4 times	5 times
Two.....	1,338	400	108	18	4
Three.....	837	227	45	2	
Four.....	469	73	7		
Five.....	310	51	3		
Six.....	195	10	5		
Seven.....	3				
Eight.....	1				

Figure 1 shows that less than one-sixth of the possible day's work of over 10 hours each were utilized during this busiest period of the season. Figure 2 shows more clearly the nature of the work in canneries as indicated by the number of women who worked over 10 hours on each day of the 5 weeks during which the permit was in force.

FIGURE 2



As in Figure 1, the extent to which the permit to work over 10 hours was violated by working over 12 hours is shown by the part of the figure which is black. Such violations occurred on every week-day and on one Sunday, July 26, when 41 women worked over 12 hours. The largest number of violations occurred on July 18 when 280 women worked over 12 hours. The greatest

use of the permit also occurred on July 18 when 1,298 women worked over 10 hours.

Figure 2 shows that in each week there are two days — usually Tuesday and Saturday — on which an unusually large number of women worked over 10 hours. This is due to the fact that relatively little work is done on Sunday. Nearly all establishments care for the ready crops at the end of the week. The next rush period occurs when the crops which ripened over the week-end are brought to the cannery. The relative amount of work during each of the 5 weeks as indicated by this figure is as follows:

	Total days over 10 hours each
First week.....	2,374
Second week.....	3,638
Third week.....	6,127
Fourth week.....	5,603
Fifth week.....	4,751
Total.....	<u>22,493</u>

Although the Industrial Board, in granting the permit to employ women over 60 hours per week, placed the maximum limit of a week's work for women at 66 hours, many violations of such limit occurred as is shown in the table below.

NUMBER OF WEEKS	Number of women working over 60 hours per week	Number of women working over 66 hours per week
1.....	992	380
2.....	518	98
3.....	120	12
4.....	48	1
5.....	5	1

In the above table 1,683 individual women worked over 60 hours per week and 492 worked over 66 hours per week. The total number of weeks over 60 hours was 2,605 and the total number over 66 hours was 621.

In like manner the Industrial Board stipulated in the permit that women should not work more than 6 days in any one week. Nevertheless the investigation showed that one establishment whose principal crop was peas worked 34 women 7 days one week;

another whose principal crops were peas and beans worked 17 women 7 days one week; a third whose principal crops were raspberries and cherries worked 47 women 7 days one week; a fourth whose principal crops were strawberries and raspberries worked 11 women 7 days one week, 14 women 7 days in each of 2 weeks, and 17 women 7 days in each of 3 weeks. The last two establishments belong to the same firm.

In these cases there is but little evidence to support the contention of the canners who violated the permit that industrial necessity forces them to work women 7 days per week, even in emergencies. For example, 19 establishments stated that their principal crops handled during the 5 weeks under investigation were berries or cherries while an additional 19 gave as the crops second in importance either berries or cherries. Hence of these 38 establishments which handled berries or cherries, only one firm, operating 2 canneries, worked women 7 days per week. In like manner, of the 70 establishments which gave peas as their principal crop, only the 2 mentioned above worked women 7 days per week. In each case where women worked 7 days per week the cannery attempted to handle more peas or small fruits than the capacity of the cannery warranted. It appears, therefore, that 7-day work for women is not an industrial necessity but is due to the intent of the individual canner to disregard the provisions of the law whenever it is financially desirable to do so.

The same is true of canners who worked women over 66 hours per week. About one-third of the 94 establishments investigated worked no women over 60 hours per week, while the other two-thirds took advantage of the permit to work women over 60 hours per week in emergencies. Only about one-fifth of them violated the permit by working their women over 66 hours per week. There is no evidence to show that conditions affecting those canneries which violated the permit were peculiar to those establishments and were not present in the greater number of cases which observed the provisions of the permit.

To a less marked degree the same is true of those establishments who worked women over 12 hours per day. While all but 9 of the 94 canneries used the permit to work women over 10 hours per day, less than 40 per cent of them violated the permit by working

women over 12 hours per day. Again the evidence at hand indicates that those who violated the permit in this manner did so not because of inherent industrial necessity but, as before, because of individual intent to disregard the provisions of the law whenever financially desirable to do so.

Incidentally, transcripts of the payrolls of 88 canneries for these 5 weeks were made. Perhaps some of the wage earners worked short hours and hence would necessarily receive small wages. Nevertheless, the table of wages is significant as an index of the low wages paid in the canning industry since it shows the actual wages paid to all workers during the busiest week of the pea canning season. Only the busiest week of the 5 in each cannery for which transcripts of the payrolls were made is included in the table.

CUMULATIVE PERCENTAGES OF WEEKLY EARNINGS IN 88 CANNERIES IN NEW YORK STATE FOR THE BUSIEST WEEK FROM JUNE 28 TO AUGUST 1, 1914, CLASSIFIED BY SEX AND AGE GROUPS

GRADES OF WEEKLY EARNINGS	MALES					FEMALES				
	16+ yrs.		14-16 yrs.		18+ yrs.	16-18 yrs.		14-16 yrs.		
	Num- ber	Cumula- tive per cent	Num- ber	Cumula- tive per cent	Num- ber	Cumula- tive per cent	Num- ber	Cumula- tive per cent	Num- ber	Cumula- tive per cent
Less than										
\$3 00.....	458	7.8	10	27.0	1,034	19.7	50	17.9	14	24.6
4 00.....	584	9.9	13	35.1	1,546	29.5	80	28.6	28	49.1
5 00.....	720	12.2	22	59.5	2,239	42.7	138	49.3	48	84.2
6 00.....	852	14.5	26	70.3	3,305	63.0	205	73.2	56	98.2
7 00.....	1,023	17.4	28	75.7	4,431	84.5	259	92.5	57	100.0
8 00.....	1,242	21.1	35	94.6	4,840	92.3	268	95.7	57	100.0
9 00.....	1,544	26.2	36	97.3	5,051	96.3	275	98.2	57	100.0
10 00.....	1,907	32.4	36	97.3	5,172	98.6	278	99.3	57	100.0
12 00.....	3,016	51.3	37	100.0	5,217	99.5	280	100.0	57	100.0
15 00.....	4,537	77.1	37	100.0	5,243	100.0	280	100.0	57	100.0
20 00.....	5,495	93.4	37	100.0	5,243	100.0	280	100.0	57	100.0
25 00.....	5,761	97.9	37	100.0	5,243	100.0	280	100.0	57	100.0
Total...	5,883	100.0	37	100.0	5,243	100.0	280	100.0	57	100.0

The significant facts shown in this table are as follows: More than one-fourth of all male employees 16 years of age or over received less than \$9 during their busiest week; more than one-half received less than \$12; and less than 7 per cent received \$20

or more. It should be noted too that during this time male employees over 18 years of age were permitted to work 7 days per week and that no limit was placed on their daily or weekly hours.

Sixty per cent of the male employees from 14 to 16 years of age received less than \$5 per week; 75 per cent received less than \$7 per week; and only 5 per cent received \$8 per week or more.

Of the total number of females 18 years of age or over, including all who worked over 12 hours per day, over 66 hours per week, or 7 days per week, nearly one-third received less than \$4 per week; over two-fifths received less than \$5 per week; five-eighths received less than \$6 per week; and only 15 per cent received \$7 per week or over. During the same time approximately 20 per cent of all women over 18 years of age worked over 60 hours per week.

One-half of the females 16 to 18 years of age received less than \$5 during their busiest week; three-fourths received less than \$6; and only 7½ per cent received \$7 or over.

One-half of the females 14 to 16 years of age received less than \$4 during their busiest week; and less than 2 per cent received \$6 or over.

SUMMARY AND CONCLUSION

As stated at the outset this has been only a review of administrative experience. Administration of the law being a matter of its enforcement, the detailed review naturally has dwelt chiefly on the nature and extent of violations of the law. In all fairness, however, and in order that a true impression of the situation may be given, it remains to emphasize here that over against the non-observance of the law detailed above stands extensive compliance therewith in the year 1914.

In other words, while it is true that there was considerable illegal employment of children in sheds (or tents) by a number of canners, and while there were not a few violations of the law concerning hours of women, and while some canners who choose so to do, feel that they can, and actually do, violate the law practically with impunity owing to public sentiment adverse to the law in their communities, nevertheless violation of law was far from general. On the contrary, for a large proportion of individ-

ual firms no violations were recorded. In fact, as may be seen by comparison of the number of firms which violated the law with total firms, there stands out clearly a majority of canners for whom no violation was recorded. It is to be noted here also that for many of these latter as well as for some even of those against whom violations were reported, the inspectors especially reported that the employers were evidently faithfully endeavoring to observe the law.

In short, three classes of canners seem to be revealed quite clearly by the inspectors' reports; first a majority who both endeavored to and did observe the law; second a smaller number whose intent was to observe the law but who violated it under stress of special circumstances; and third, a still smaller number, though embracing a few of the largest establishments, who displayed an inclination to evade the law at will.

It is important to emphasize the large extent to which the law was lived up to, not alone as a matter of fairness but as a fact of vital importance with reference to any question of change in the law. The fact that so many canners conducted their business without violation of law, argues most strongly that the law as it now stands is not an unreasonable restriction upon the industry, and makes it clear that violations of the law are chiefly the result of the individual canner's attitude toward it and not of the necessary exigencies of his business. Furthermore, it should be the principle in such a case, where, as it must not be forgotten, it is a matter of departing from standards for women and children in industry required without exception in all other lines and recognized both by courts and public opinion as sound health measures, that the practice of firms with the highest standards rather than others, should guide. Following, therefore, this principle, that it is the standard of the law-abiding rather than the law-evading employer which should be maintained, it is recommended that the present law should not be changed.

This does not overlook the problem of enforceability in the case of the few recalcitrant canners, but as to that this report can only set forth the facts without recommendation.

(B) THE DAY OF REST LAW

The Legislature of 1913 passed what is commonly known as the one day of rest in seven law. Incorporated in the program of the special legislative committee for revising the entire code of factory laws of the State, this law met but little opposition from former opponents of similar proposed legislation. This apparent change of heart may be explained in part by contending that this law was lost sight of in the mass of other labor legislation which passed the same session of the Legislature. On the other hand, there was undoubtedly a frank recognition on the part of many who influence legislation in this State of the necessity of granting more protection to the hitherto unprotected classes of wage earners. The grant of one day of rest in seven is merely one manifestation of this change.

The law went into effect October 1, 1913. It does not prohibit Sunday labor but provides that "Every employer of labor engaged in carrying on any factory or mercantile establishment in this state shall allow every person, except those specified in subdivision two, employed in such factory or mercantile establishment at least twenty-four consecutive hours of rest in every seven consecutive days." Subdivision two specifically exempted certain classes of employees from the operation of the law. The Industrial Board was given power to "except specific cases for specified periods from the provisions" of this law when "the preservation of property, life or health requires."

Even before the one day of rest in seven law became operative a considerable volume of correspondence began to be directed to the Department of Labor containing inquiries about the scope and operation of the law. These inquiries indicated many of the administrative difficulties to be encountered in the enforcement of the law. In order to answer these inquiries and to anticipate future inquiries of a similar nature from other interested parties, the Department issued in January, 1914, a one day of rest in seven bulletin. This contained the text of the law; opinions of the Attorney-General in regard to the definition of certain terms used in the law; rulings of the Department of Labor in response to specific questions; further definition of the terms of the law; directions to employers to facilitate compliance with its provisions; and a classification of industries and wage earners affected and

those not affected by the law, about which inquiries had already been made.

Early correspondence concerning this law may be classified into two groups: inquiries concerning interpretations of its provisions—that is, whether or not a specific industry or wage earner was included within its scope; and requests for exemption of designated businesses or groups of wage earners. Inquiries for information were answered by the Department of Labor, while requests for exemption were referred to the Industrial Board since the Commissioner of Labor had no power to exempt any one from the provisions of the law.

These requests varied from an application for exemption of a small group of wage earners for a single week because of an unforeseen emergency in a particular plant to an application for the permanent exemption of an entire industry because of the difficulties involved in the administration of the necessary changes in the working schedule. The Industrial Board investigated and decided all of the former cases but it had no power to grant the exemptions asked in the latter. Recognizing the more or less general misunderstanding in regard to the power of the Board to grant exemptions the Board prepared the following official statement for the information of those seeking exemption from the provisions of the law:

Owing to the fact that the Industrial Board has received, and is continually in receipt of, numerous applications for exemption from the "One day of rest in seven" law (article 2, section 8-a, of the Labor Law) in regard to which certain discretionary power is vested in the Board by paragraph 5 of said section, the Board believes that a better understanding will be had by the industries of the State if a clear statement of its attitude on the subject is made at this time.

Paragraph 5 reads as follows:

"The Industrial Board at any time when the preservation of property, life or health requires, may except specific cases for specified periods from the provisions of this act by written orders which shall be recorded as public records."

The Industrial Board considers it to be the clear intent of the law that exemptions from section 8-a may be granted by it only in cases of great emergency, such as fire, flood, or other conditions which could not be anticipated in the statute itself. The Industrial Board will not consider applications for exemption under this section in cases where it is possible to comply with the law by the engaging of additional employees. Inasmuch as the law does not prohibit work on Sunday, it is possible, in practically all cases, where continuous operation is desired, to comply with the "One day

of rest in seven" law by employing more help and rotating the day of rest for all employees.

Furthermore, it is the clear intent of the law that exemptions, if any, be granted only in case of specific processes or businesses, not in entire industries, and then only for specified periods, limited in time until the emergency in question has passed.

Since the Industrial Board could not grant permanent exemptions to entire industries, the Legislature of 1914 passed two amendments to the one day of rest in seven law. The first exempted "Employees in dairies, creameries, milk condensaries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed." The second exempted "Employees, if the commissioner of labor in his discretion approves, engaged in the work of any industrial or manufacturing process necessarily continuous, in which no employee is permitted to work more than eight hours in any calendar day."

Soon after these amendments were passed, the Commissioner stated that he would entertain application for exemption under this second amendment upon the following conditions:

"1. The industry or industrial process must be continuous; that is, must continue twenty-four hours a day, seven days a week; and no employee included in the request for exemption must work more than eight hours a day.

"2. Application must be made on forms furnished by the Department of Labor.

"3. A supervising inspector detailed from the Albany office will verify the claims set forth in the formal application, before action is taken.

"4. Where exemption is granted a certificate to that effect will be issued and must be kept posted in the plant affected. A list of exemptions will be furnished the supervising inspector of the district in which the exempted industry is located.

"5. The exemption may be revoked at any time after a hearing to the parties interested."

In addition, the Legislature of 1914 amended the factory law to add generating plants owned or operated by a public service corporation to the list of establishments exempt from the provisions of the one day of rest in seven law. It also amended the

public health law to give employees in drug stores and pharmacies one afternoon and evening off each week and one full day off in each two consecutive weeks. This amendment excludes the operation of the one day of rest in seven law from these employees.

Of the requests for exemption from the provisions of the law a considerable number came from employers who needed no permit since they were specifically exempted by the law itself. These requests were answered by pointing out to the applicant wherein the request was unnecessary. Other requests were passed upon either by the Industrial Board or by the Commissioner of Labor according to their separate jurisdictions.

The Industrial Board granted the following requests for exemption for the reasons shown here, to be effective during the period designated:

Industry	Reason for granting exemption	Period of exemption	Number of men affected
Dye works.....	Continuous operation necessary. Unable to obtain additional skilled men.	6 months.....	6
Stone crusher	Weather uncertainties jeopardize contract made 11 years ago, with 9 years to run, unless plant permitted to operate whenever weather permits.	8 months.....	5
Canneries (application of 83 canneries. Later, same ruling extended to others).	"Condition that will result in serious damage and loss by reason of sudden and rapid ripening of crops, unless anticipatory relief is granted."	July 8, 1914, to Oct. 15, 1914.	All male employees over 18 years of age. Total number of such employees in canneries of the state, 5,460.
Coal tar dyes.....	Unusual demand for products due to war in Europe. Necessary to run seven days to keep textile mills supplied.	3 months.....	60
Cheese factory.....	Unable to obtain additional skilled men. Granted on condition that hours per week do not exceed 60 and that not more than 3½ hours work required on Sunday.	6 months. (Later, exemption extended six months.)	18
Electrical appliances.	Fire in plant created temporary emergency.	8 weeks.....	30
Garbage reduction plant.	Accumulation of garbage due to high water, thereby menacing public health.	5 weeks.....	28
Butter and cheese factory.	Difficulty of securing and retaining competent help due to isolation of the plant.	6 months.....	18
Flour mill.....	To grind grain in elevator to make room for more grain coming in boats which "are in a great hurry to unload on account of the lateness of the season."	One day.....	All mill employees.

The Industrial Board has refused the permanent exemption of wage earners in such industries as blast furnaces and breweries on the ground that the law does not contemplate the continuous exemption of any industry not specifically exempted by the law. The Board has also refused the temporary exemption of certain individual establishments where the inability of the employers to secure adequate additional help was not demonstrated to the Board.

Under the authority given by the Industrial Board the Commissioner of Labor has granted emergency exemptions, as follows:

Industry	Reason for exemption	Period of exemption
Steel barrel factory...	Rush work to fill order for Russian government.....	2 weeks.
Milling.....	To complete flour order for Belgian sufferers.....	1 week.
Creamery.....	Extension of time to train men for work.	

Exemptions granted by the Commissioner of Labor by virtue of his power to exempt from the provisions of the law employees in necessarily continuous industries in which no employee is permitted to work more than eight hours in any calendar day are given in the table below. Because in a considerable number of these establishments the men exempted are all or nearly all firemen or engineers, a separate classification of the known workers in these two occupations is added.

In each case where exemptions have been granted in continuous industries, a vote of the men affected has been taken to determine their wishes in the matter of a seven day week. It should be noted that the law as originally passed had not decreased the weekly hours of these men but had caused a change of schedule by which they worked fifty-six hours in six days instead of fifty-six hours in seven days. This meant four days per week of eight hours each and two days of twelve hours each. Hence the vote meant, "Shall we continue to work four days per week of eight hours each and two days of twelve hours each, or shall we ask to be permitted to work seven days of eight hours each?"

In order to show the ratio of votes in favor of the seven day week to the men affected in each establishment the two groups are combined in one table.

Industry	Vote of men on seven day week		Total number of men exempted	Number of known firemen and engineers
	For	Against		
Aluminum.....	486	0	502	.....
Ice.....	3	0	3	3
Ice.....	4	1	7	7
Ice.....	5	0	5	3
Chemicals.....	59	0	60	.....
Mahogany veneer.....	3	0	3	3
Gas.....	6	0	6	.....
Ice.....	33*	0	13	13
Chemicals.....	32	0	34	16
Glass.....	3	0	3	3
Power plant.....	14	0	15	.....
Chemicals.....	12	2	22	9
Insulators.....	6	0	6	6
Chemicals.....	25	6	33	.....
Chemicals.....	75	1	78	.....
Alundum.....	12	0	12	.....
Chemicals.....	22	13	42	.....
Chemicals.....	12	0	12	.....
Salt.....	20	0	21	7
Chemicals.....	9	0	9	.....
Ice.....	6	0	6	6
Soda.....	398	23	480	.....
Paper mills.....	15	0	15	.....

One request for an exemption of two plants operating as continuous industries was denied on the ground that inadequate street car service prevented the men from going to and from work at the time of changing shifts. The Commissioner of Labor, in refusing this exemption, indicated that if better street car service was provided he would entertain a second request for exemption. In these two establishments the vote of the men was as follows: Plant No. 1, for seven day week, 88; against, 163. Plant No. 2, for, 16; against, 39.

The Commissioner of Labor has refused exemptions to workmen in the following industries on the ground that their work is not "necessarily continuous" as defined in the law: Brick yards, milk station, repair shops of street railway company, tannery, cigar stand, newspaper publishing company, electric light plant, repair shops of steam railroad, milk condensery, milk pasteurizing plant, engine room of brewery, engine room of mercantile establishment, metal packing, core ovens, salt works, making of steam to maintain pressure for fire protection, kodak factory, ice plant which merely preserves ice on Sunday, dry docks, breakfast

* Twenty men were denied exemption on the ground that their work was not necessarily continuous.

food factory, paper company, bakery, engine room of varnish works, milling, kiln burners.

It is believed that employers are quite generally complying with the provisions of this law. The record of prosecutions of alleged violations for the year is as follows:

	Division of factory inspection	Division of mercantile inspection
Cases prosecuted.....	35	132
Pending.....	9	18
Dismissed or acquitted.....	4	7
Withdrawn.....	4	4
Convictions:		
Sentence suspended.....	6	56
Fines imposed.....	12	47
Total amount of fines.....	\$240	\$1,610

The principal reason for the passage of the one day of rest in seven law is that it is a health measure intended especially to protect those wage earners in specified industries who work not only seven days per week but long hours per day. Incidentally, some of its advocates hoped that by giving one day of rest in seven to those continuously employed, a place would be provided for a part of the unemployed workers of the state.

In the case of *The People of the State of New York v. C. Klinck Packing Company*, decided by the Court of Appeals on February 5, 1915, the constitutionality of the law was upheld. In giving its decision the court said in part:

We see at the outset that it is applicable only to certain classes of employees. But these are they who work in factories and mercantile establishments. We know as a matter of common observation that such labor is generally indoors and imposes that greater burden on health which comes from confinement many times accompanied by crowded conditions and impure air. Thus special conditions are presented which become a reasonable basis for special consideration.

Can we say that the provision for a full day of rest in seven for such employees is so extravagant and unreasonable, so disconnected with the probable promotion of health and welfare that its enactment is beyond the jurisdiction of the legislature? Or does the very reverse seem to be its character? We have no power of decision of the question whether it is the wisest and best way to offset these conditions and give to employees the protection which they need even if we had any doubt on that subject. That question, as we have many times said in other similar cases, is for the legislature. Our only inquiry must be whether the provision on its face seems reasonable, fair and appropriate, and whether it can fairly be believed that

its natural consequences will be in the direction of betterment of public health and welfare, and, therefore, that it is one which the state for its protection and advantage may enact and enforce. It seems to me very clear that we may answer that it is such an one.

The thought of one day of rest in seven has come down to us fortified by centuries of recognition. It is true that often it has been coupled with and perhaps subordinate to the desire for religious observances. But the idea of rest and relaxation from the pursuits of other days has also been present and whether we like it or not we are compelled to see that in more recent times the feature of rest and recreation has been developing at the expense of the one of religious observance.

I suppose that no one would contend that continued and uninterrupted indoor labor would be good even for an adult man. The laws which have been passed and sustained with general approval in almost every jurisdiction limiting the hours of labor for women and children and for those engaged in especially trying employments, such as mining and the operation of railroads, amply evidence the widespread belief that in certain fields the public health and welfare are subserved by generous opportunities for relaxation and recuperation. A constantly increasing study of industrial conditions I believe leads to the conviction that the health, happiness, intelligence and efficiency even of an adult man laboring in such employments as those mentioned in this statute will be increased by a reasonable opportunity for rest, for outdoor life and recreation, for attention to his own affairs, and, if he will, study and education.

Then we come to the question what is a reasonable opportunity, and within wide limits that problem, is for the legislature. Anybody would probably say that one day in thirty or sixty would be too little and one day in each two days extravagant. Between these extremes none can safely assert that the mean adopted by the legislature of one day in seven is unreasonable. In fact, historical and worldwide customs seem to make it a natural one and we should not interfere with it.

At the same time the court rendered a decision in the Matter of Peach which involved the constitutionality of the amendments to the one day of rest in seven law which were passed in 1914. In upholding the constitutionality of the amendment passed as subdivision 2-f of section 8-a the court said:

The provision exempting employees of dairies, creameries, etc., numbering seven or less, seems to me to be based upon a perfectly reasonable classification and, therefore, within the legislative power. It is to be observed that all of these employments deal with perishable products consisting of milk or having milk as a basic element. It is apparent, therefore, that they could not be wholly suspended for twenty-four hours without either total destruction or serious impairment of their products, and that the only manner in which the statute could be complied with would be laying off part of the employees from day to day. It is then quite probable that in a small establishment it would be more burdensome than in a large one, to lay off each

employee one full day in seven. It is not difficult to perceive that it might impose a greater proportion of extra work on those who remained if no extra men were hired or a greater proportionate burden on the business if extra men were employed to take the places of those who were temporarily idle.

In addition I think that the legislature might consider the widely prevalent belief that in larger establishments there is necessarily lacking the same beneficial personal relationship between employer and employee which prevails in a smaller one, and that the demands and strain upon the employee in the former are apt to be greater, and that, therefore, there is greater need for oversight and regulation.

Taking into account these and perhaps other considerations we believe that the legislature was justified in making this classification. In determining whether it will enact such legislation as this the legislature must necessarily always consider the two elements of necessity for the legislation and of the burdens which its enactment will inflict upon those who are subject to it. There must be a reasonable relation between the two, and frequently legislation has been condemned because the ends to be gained did not afford any adequate or proper justification for the interference and burdens which were imposed on individual rights.

In considering subdivision 2-e of the one day of rest in seven law the court decided as follows:

The remaining provision of the statute which exempts "employees, if the commissioner of labor in his discretion approves, engaged in the work of any industrial or manufacturing process necessarily continuous, in which no employee is permitted to work more than eight hours in any calendar day," presents greater difficulties. In fact, we are compelled to express the belief that it is unconstitutional because of the attempt which the legislature has made to delegate its powers to the commissioner of labor. The proposition is so well settled that we need not cite authorities in its support that the legislature cannot secure relief from its duties and responsibilities by a general delegation of legislative power to some one else. It seems to us that that is precisely and broadly what is here attempted. The provision as a whole means that certain employees shall be exempt if the commissioner of labor "in his discretion approves."

The question whether it shall take effect in any and all cases is left wholly to his volition. Under its terms he has the power without check or guidance, so far as we can perceive, to veto the entire clause and decide that its benefits shall never be extended to any case although it comes within the precise terms of the statute, or to permit the exemption in one case and deny it in another precisely similar one. Of course, it is not to be assumed that the commissioner of labor would intentionally be arbitrary and unreasonable in the exercise of this power, but nevertheless the legislature has attempted to confer upon him the opportunity which would permit of these shortcomings and we are to judge of a statute by what is possible under it. In the absence of any guide it might very well happen that an administrative officer with the best of purposes would nevertheless be very fallible in the execution of them.

In view of this last decision denying the Commissioner of Labor the power to grant exemptions from the provisions of the one day of rest in seven law, such exemptions as he has already granted are thereby nullified. Hence unless an additional amendment, conforming to the above quoted court decision, is passed, all persons employed in factories and mercantile establishments and not specifically exempted in the law, must be given twenty-four consecutive hours of rest in each period of seven consecutive days.

Experience under the law shows that wherever it has been possible to arrange the schedule of work on a six day basis without hiring more men, the weekly hours of labor have not been reduced and no place has been found for unemployed workmen. For example, some men who have formerly worked eight hours per day seven days per week now work eight hours per day four days per week and twelve hours per day two days per week; taking the twenty-four consecutive hours' rest in each period of seven consecutive days demanded by the law. Since the Legislature has no power to regulate the total hours of male adults in factory work, it obviously cannot give the worker the relief intended by the law if excessive hours are necessitated for one or two days per week in order to gain one day's rest per week. For it is doubtful if a day of rest so gained is of real benefit to the worker.

In other cases, where the provisions of the law are met by hiring extra men, the men whose hours are reduced have usually suffered a corresponding reduction in wages. The one striking exception to this rule was the case of the men employed in the engineering departments of the breweries of the State who, through their unions, succeeded in obtaining the same weekly pay for six days as they formerly received for seven. A few other minor exceptions have come to the attention of the Department of Labor. Where the law is complied with only by reducing the weekly wages of the employees affected the advantages of the period of rest so gained are again doubtful unless the daily hours were excessive.

Since the primary object of the one day of rest in seven law is to protect the health of the wage earners of the State by insuring them rest periods, it is suggested that such object may be

better secured by adequate rest periods every day than by a longer rest period once a week obtained only by working excessive hours on all or a part of the other six days. Thus eight hours a day seven days per week is probably less injurious to the health of the wage earners than fifty-six hours per week divided into four periods of eight hours each and two periods of twelve hours each. This consideration, it may be noted, is equally important whether continuous or non-continuous industries are considered.

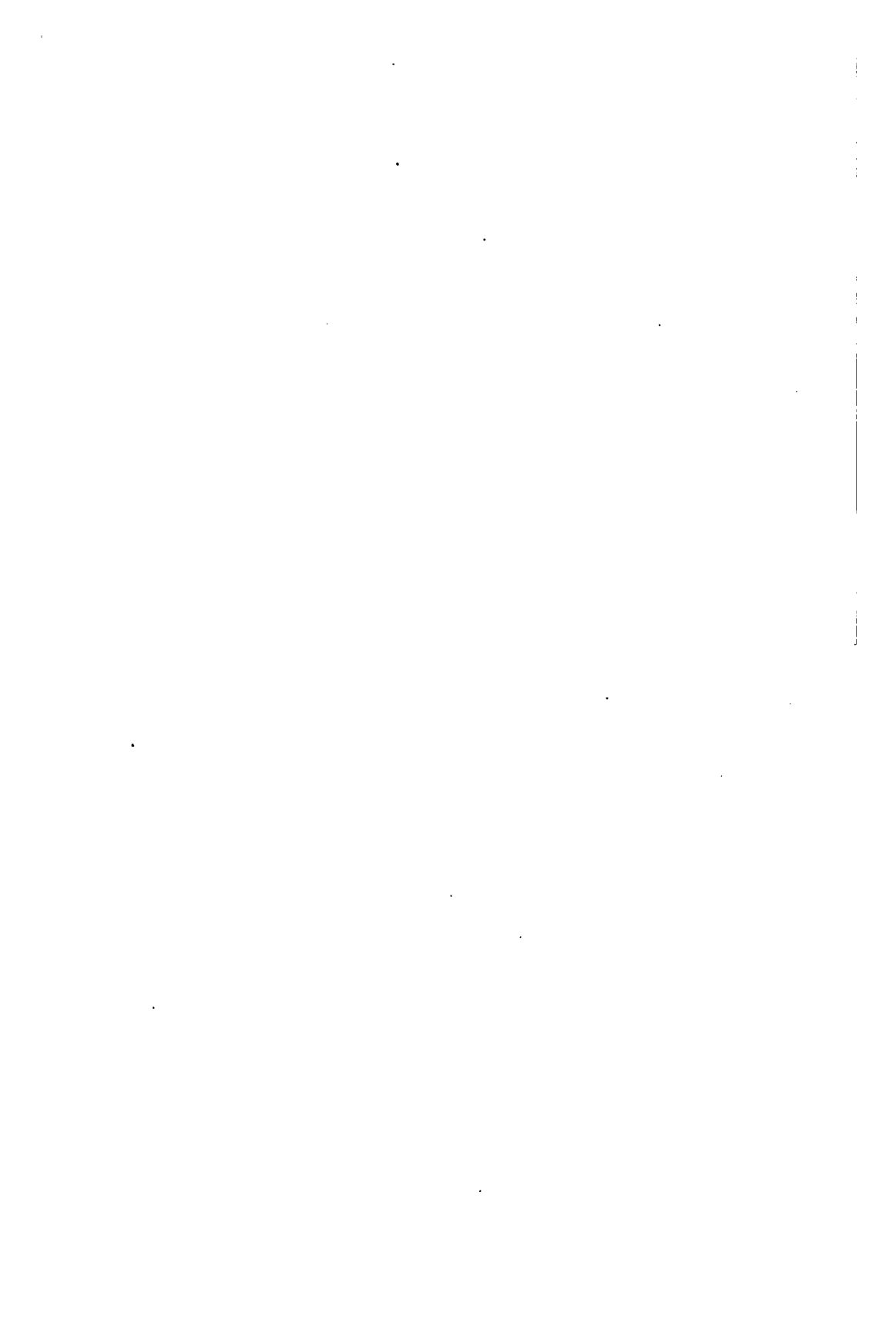
The Commissioner of Labor therefore recommends that subdivision 2-e of the one day of rest in seven law be amended so as to exempt absolutely any industrial or manufacturing process whose employees have an eight-hour day or shift whether the process be continuous or not.

The experience under this law has demonstrated too that the one day of rest in seven law does not insure adequate protection to those wage earners who work excessive daily hours. It is generally understood that the Legislature has no power at the present time to regulate the daily hours of all wage earners of the State. In order to supplement the benefits of the one day of rest in seven law, the coming constitutional convention should give the Legislature specific power to regulate the daily and weekly hours of all wage earners.

Part V

**REPORT OF BOARD OF MEDIATION AND
ARBITRATION**

[177]



(1) REPORT OF CHIEF MEDIATOR

HON. JAMES M. LYNCH, *Commissioner of Labor*:

SIR.— The following report of the year ending September 30, 1914, is respectfully presented.

This is the 29th year since the Board of Mediation and Arbitration was created, and the 14th year since its organization as a Bureau of the State Department of Labor.

Although the number of industrial disputes recorded in 1914 was less than half as many, the number of interventions by the Bureau was nearly as large as in 1913, with a larger proportion of success than ever before. There were 62 interventions as compared with 68 in 1913 and 41, just about two-thirds of them, were successful. More than 26,000 work people were involved in the disputes settled by the Bureau.

Three disputes concerning piece work prices among the shoe workers of Brooklyn were adjusted by arbitration, a mediator of the Bureau acting as arbitrator on request from both parties. Another dispute of brewery workmen in Albany was also adjusted by arbitration, the chief mediator acting as arbitrator after securing the consent of the disputants to adjust the dispute according to the arbitration provision in their trade agreement. In four other disputes, which were strikes, mediation resulted in a reference of the points at issue to arbitration by specially chosen boards.

Fifteen requests for intervention were received from the work-people, one from employers and four from the parties jointly, making a total of twenty. In 1913, 22 requests were received. These numbers refer to requests received before the initial intervention. A few of the more important interventions are here described.

On December 31 a strike was threatened by 65 brewery workmen employed in an Albany brewery. They demanded the reinstatement of a fireman who had been discharged for alleged neglectfulness causing damage to one of the boilers. Several conferences had been held without agreement. The chief mediator intervened by request on December 30 and suggested to the officials represent-

ing the company and the union that the case in question be referred to a committee of arbitration in accordance with the trade agreement in force. His suggestion was carried out and the mediator was chosen as the seventh member of the arbitration committee. His decision was adopted by a unanimous vote of the committee, the discharged fireman to be reinstated immediately without pay for the time lost.

A strike of 1,328 molders, machinists and others at Depew on February 5 was caused by the discharge of union members who had served on a grievance committee. The Bureau intervened February 10. The company agreed to meet a committee of its own employees, and finally consented to confer with union representatives also. But although the strikers did not demand recognition of the union, no proposition for re-employment offered by the firm was acceptable to them. A number of conferences were held, the mediators attending. The failure of the final conference on March 29 was due to lack of agreement on the time limit within which the strikers were to be re-employed. No settlement was made with the strikers and other men were employed in their places.

About 1,000 glove cutters in 150 factories of Gloversville and Johnstown went on strike August 21 because of the manufacturers' refusal to grant an increase in wages. Repeated efforts by the State mediators and by a committee of business men and clergymen were unsuccessful in adjusting the differences. A public investigation was held by the State Board of Mediation and Arbitration from October 5 to 14. In presenting its report the Board recommended a compromise increase in wages. Settlements had been made by six firms employing about 150 cutters. The strikers were willing to make a general settlement on these terms but the manufacturers refused to grant any increase at all under the conditions existing, and the strike was continued until January 20, when the strikers voted to return to work.

On September 2, 9,500 painters went on strike in New York City, demanding increase of wages from \$18.70 to \$20 per week. The Bureau's agents interviewed both parties, urging a joint conference, but neither side was willing at that time to go into a conference. On September 12 a letter was sent to representatives of

the union and the contractors' association, requesting them to meet that evening at the office of the Bureau of Mediation and Arbitration in joint conference for the purpose of adjusting the difficulty existing in the trade. The conference was held in response to the letter and a compromise proposition made as follows: "The weekly wage scale to be \$19.25 for the present. Further increases to be granted on the 15th of August 1915 and 1916, respectively." The proposition was referred to the union and the employers' association. The agreement was ratified and a contract was agreed upon. The men returned to work September 16.

Three disputes occurred during 1914 in the shoe factories of Brooklyn, concerning piece prices in the cutting, fitting and trimming departments. The Shoe Manufacturers' Association and the United Shoe Workers of America made joint application for the services of Mediator M. J. Reagan as arbitrator.

The first case was arbitrated on April 23. There were five firms affected, employing a total of 1,615 workpeople, 119 of whom were in the departments directly affected. The shoe manufacturers had two representatives at the meeting and the shoe cutters, two representatives, the mediator presiding as arbitrator. Ten points in dispute were settled by the arbitrator.

On June 24 a second case was arbitrated. This involved one firm with 150 employees, 17 of whom were directly affected. Mediator Reagan acted as arbitrator with two representatives from the cutters and two from the manufacturers' association. The price list arbitrated contained 150 items.

In September another wage dispute arose between the manufacturers and employees and Mr. Reagan was again requested to act as arbitrator. Five firms were involved, which employed 1,550 workers altogether, 92 of them in the departments where the dispute originated. As before, the manufacturers had two representatives and the shoe cutters two representatives. The disputed prices were settled by arbitration on October 1.

Besides these cases of arbitration without strikes, two strikes of shoe cutters in other Brooklyn factories were settled by the Bureau, one by a conference of the parties arranged after considerable effort by the mediators, the other by mediation with the strikers separately, resulting in submission of the dispute to arbitration.

Six hundred umbrella handle and cane makers in New York City went on strike October 8, followed on the 11th by 300 silversmiths who struck in sympathy. A demand was made after the strike occurred for a 49-hour week for the original strikers. The Bureau intervened October 17 and found the strikers willing to go into a conference but the manufacturers at first refused. The first joint conference was arranged on November 12. Subsequently, a number of conferences were held and terms of settlement were adopted by the committees but were not ratified by the union and the manufacturers' association. The terms offered by the manufacturers were a 53-hour week for umbrella handle makers and silversmiths to work 51 hours per week. The strikers demanded a 49-hour week. On January 10 the attorneys representing the association and the union met in conference and agreed to a reduction of hours to 51 per week for all. The strike was declared at an end and the men returned to work January 14.

A strike of 620 weavers employed in a cotton mill at Utica occurred on November 14. The cause was a dispute between weavers and loomfixers, with demands for discharge or reinstatement of certain loomfixers and weavers. A representative of the Bureau intervened on November 24 but was unable to bring about a settlement. On the 29th he arranged a conference between the superintendent of the mill and representatives of the local and national unions. A satisfactory agreement was reached, the company agreeing to reinstate all the strikers except the one for whose reinstatement the weavers went on strike.

The teamsters of Utica notified their employers on January 1 of their request for an increase in wages to take effect April 1. When the employers refused to grant the increase, 375 teamsters employed by 40 firms went on strike, which caused almost complete suspension of trucking and coal transportation in the city. On April 2 the president of the teamsters' international union requested the intervention of the Commissioner of Labor and one of the mediators was sent to Utica. The employers had formed two independent organizations. The trucking firms offered an increase of one dollar per week and refused any further concessions.

The association of coal, material and lumber dealers at first refused to meet or treat in any manner with the strikers, but the mediator succeeded in arranging conferences and suggested that the whole matter be referred to arbitration, also suggesting that the trucking firms be invited to act jointly on the arbitration proposal. These terms were accepted and the strike was immediately ended. The result of the arbitration was a compromise increase of wages.

COMPARISON OF INTERVENTIONS, 1913-1914

	1913	1914
Number of disputes in which intervention occurred.....	68	62
Number of requests received for intervention.....	22	20
Number of disputes in which intervention was successful.....	39	41
Number of disputes in which intervention was unsuccessful.....	29	21
Number of interventions before strikes.....	9	11
Number of disputes in which conferences were arranged.....	37	37
Number of disputes settled by mediation with parties separately.....	7	9
Number of disputes settled by arbitration.....	2	4
Number of public investigations conducted.....	3	1

Particulars of each intervention are given in the table which is appended to this report.

COMPARISON OF DISPUTES, 1911-1914

	1911	1912	1913	1914
Number of strikes and lockouts.....	215	184	208	123
Employees involved { directly.....	84,119	57,340	286,180	61,182
indirectly.....	10,029	34,851	18,121	3,716
Aggregate days of working time lost.....	*2,360,092	*1,512,234	*7,741,247	†889,087

The years 1913 and 1914 show a striking contrast in the amount of labor disturbance in the State. In 1913 there was an unusually large number of disputes, breaking all records of number of workmen involved and time lost. But 1914 produced less than half as many strikes and lockouts, the number of workers participating therein was about one-fifth as many, and the time lost scarcely more than one-ninth of the amount lost in 1913.

The following table shows the extent to which the different groups of industries were affected by disputes in 1914.

* To the end of all disputes.

† To September 30, 1914.

TRADES AFFECTED

	NUMBER OF DISPUTES		NUMBER OF WORK- ING DAYS LOST	
	1913	1914	1913	1914
1-a. Agriculture.....	2	.....	191	.....
1. Stone, clay, glass products.....	14	2	49,467	1,070
2. Metals, machines, conveyances.....	33	19	199,089	203,473
3. Wood manufactures.....	9	2	34,590	83,460
4. Leather and rubber goods.....	11	11	153,568	125,162
5. Chemicals, oils, paints, etc.....	1	.....	1,700	.....
6. Paper and pulp.....	5	.....	18,684	.....
7. Printing and paper goods.....	5	2	4,654	2,655
8. Textiles.....	28	5	395,648	97,957
9. Clothing, millinery, etc.....	22	16	5,992,998	152,812
10. Food, liquors, tobacco.....	6	7	31,242	26,174
11. Water, light, power.....	5	.....	40,044	.....
12. Building industry.....	83	38	314,467	141,866
13. Transportation.....	33	17	51,663	36,604
14. Trade.....	2	2	30,726	1,955
15. Hotels, restaurants, etc.....	2	.....	127,830	.....
16. Professions.....	5	2	262,940	15,899
17. Public employment.....	1	.....	24	.....

The largest number of disputes, as usual, occurred in the building industry, but the largest amount of time lost was in the metal trades, which was 203,473 days. The clothing industry was second in importance with a loss of 152,812 days and the building industry third with 141,866 days. The leather and rubber goods group shows the same number of disputes as in 1913, with a loss of time amounting to 125,162 days.

The decrease in number and extent of disputes was quite general in the various industry groups. Thus, in the building industry 38 disputes occurred as against 83 the preceding year, in the metal trades 19 compared with 33, in the transportation trades 17 compared with 33 and in the textile trades 5 compared with 28. The clothing industry shows the greatest decrease in extent of lost time. In 1913 there were 22 clothing trade disputes with a loss of nearly 6,000,000 days, but in 1914 only 16 disputes causing a loss of 152,812 days. In two industry groups, the metal trades and wood manufactures, the loss of time was slightly larger than in 1913. There were six classifications of industry which were entirely free from disputes in 1914, namely, agriculture; chemicals, oils, paints, etc.; paper and pulp; water, light and power; hotels, restaurants, etc.; and public employment.

PRINCIPAL CAUSE OR OBJECT OF DISPUTES

	NUMBER OF DISPUTES		NUMBER OF WORK- ING DAYS LOST	
	1913	1914	1913	1914
Increase in wages.....	150	45	1,231,004	288,229
Reduction in wages.....	7	5	78,268	17,114
Shorter hours.....	28	5	5,608,750	84,213
Longer hours.....	2	1	497	500
Trade unionism.....	41	46	270,613	463,326
Particular persons.....	25	12	69,069	30,981
Working arrangements.....	6	5	1,097	2,830
Payment of wages.....				
Sympathetic.....	4	1	426,278	1,524
Miscellaneous.....	5	3	23,949	370

The most important general cause of disputes in 1914 related to matters concerning trade union organization, such as union recognition, discrimination against union members, closed shop, etc. Both the number of strikes and the aggregate number of days lost in this cause were larger than in 1913. More than half the total number of workers involved in strikes and lockouts were involved in these trade union disputes, and the loss of time was over half the year's total. The number of strikes for wage advances was one less than the trade union disputes, but the time lost was considerably less. In 1913 the movement for shorter hours produced 28 disputes with an immense loss of time, but in 1914 only five disputes and a loss of 84,213 days. Disputes concerning employment or discharge of particular persons were about half of the number in 1913.

RESULTS OF DISPUTES

	NUMBER OF DISPUTES	
	1913	1914
Strikes successful.....	72	36
Strikes partly successful.....	76	38
Strikes lost.....	114	49

Results of disputes were nearly the same in proportion as in the preceding year. There were exactly half as many disputes successful and half as many partly successful, but the number lost entirely was less than half. About 90 per cent of the employees concerned in disputes were at least partly successful. This proportion is a very little less than in 1913.

METHOD OF SETTLEMENT OF STRIKES WON OR COMPROMISED

	NUMBER OF DISPUTES	
	1913	1914
Direct negotiations between parties.....	118	44
Mediation by State Bureau.....	26	24
Mediation by other agencies.....	..	2
Arbitration.....	4	4

The same number of disputes were settled by mediation and by arbitration as last year, 26 by mediation and four by arbitration. Three of the four arbitration cases were thus settled after mediation by the Bureau of Mediation and Arbitration, arbitration being the suggestion of the mediators. There were but two cases of successful mediation by other agencies than the Bureau, which were the Delaware and Hudson strike, settled by a representative of the Federal Board of Mediation and Conciliation, and a strike of laborers at Harrison in which the sheriff arranged a conference resulting in settlement.

Only five public service disputes occurred in 1914. The most serious was the strike of engineers, firemen, conductors, trainmen and telegraphers on the Delaware and Hudson Railroad. That strike involved 3,155 employees but lasted only one day, a settlement being obtained through mediation by a representative of the Federal Board of Mediation and Conciliation. One small strike of freight handlers took place in Albany and the other three were in New York City.

We appreciate the fine spirit of cordiality with which the efforts of the Board have been received generally both by employers and workmen, and are grateful for the advice and assistance received from the Commissioner and other officers of the Department of Labor.

Respectfully submitted,

WM. C. ROGERS,
Second Deputy Commissioner of Labor.

(2) REPORT OF INTERVENTIONS

Albany, Brewery Workmen.—On December 31 a strike was threatened by 65 workmen employed in an Albany brewery. They demanded the reinstatement of a fireman who had been discharged for alleged neglectfulness causing damage to one of the boilers. Several conferences had been held without agreement. The chief mediator intervened by request on December 30 and suggested to the officials representing the company and the union that the case in question be referred to a committee of arbitration in accordance with the trade agreement in force. His suggestion was carried out and the mediator was chosen as the seventh member of the arbitration committee. His decision was adopted by a unanimous vote of the committee, the discharged fireman to be reinstated immediately without pay for the time lost.

Albany, Machinists.—A strike of machinists in Albany occurred December 18, 1913. The cause of the strike was the discharge of employees who were officers in the union and the union claimed that 65 men quit work but the company reported that only 37 went out and that the six men were discharged because of business conditions and inefficiency, not because of their union activities. The Bureau intervened on December 17, the day before the strike, but the manager of the company would not agree to a conference. After the strike occurred a conference was arranged, on December 23, but did not result successfully. The company's manager stated that they could re-employ only about 10 or 15 men and would not promise to reinstate the others when there should be work. No settlement was made with the strikers.

Albany, Teamsters.—About 200 teamsters employed by several trucking firms went on strike May 1, 1914, for an increase in wages of one dollar per week. Several conferences were held during the month of April between representatives of the employers and the teamsters' union. One of the mediators was invited to be present at all of those conferences. On April 27 the mediator presented to a meeting of the union a proposition from the employ-

ers offering an increase of 50 cents per week, effective January 1, 1915, and a similar increase on January 1, 1916, or that the wage question be referred to a board of arbitration. This proposition was rejected by the union and the men quit work May 1. Another conference was arranged by the mediator but the employers offered no further concessions and declared that if the men still refused to arbitrate they would begin business Monday morning, May 4, with other employees. A special meeting was held by the union on Sunday, May 3, when the mediator and the general organizer of the international union secured a unanimous vote of the men to submit their demands to arbitration. The arbitrator rendered a compromise award.

Altman, Laborers.—On July 20, 1914, 200 laborers employed in erecting a dam near Altman struck for an increase in wages from 17½ to 20 cents per hour and for lower prices for food and shack rent. The Bureau was notified of the strike on July 21 by a member of the strikers' committee. A representative intervened the next day and arranged a conference between the superintendent in charge of the work and the strikers' committee, which resulted in a settlement of the strike. The men returned at the old rate of wages but shack rents were discontinued.

Buffalo, Garment Workers.—A strike of garment workers occurred in Buffalo about August 1, 1914. The company reported that the strike was caused by a demand for the discharge of a foreman, but the strikers claimed it was against reductions in wages. The strike affected directly or indirectly 110 employees. A mediator intervened by request of a union official on September 3 but was not successful in his efforts to arrange a conference because the employer refused to meet or treat in any way with the employees.

Depew, Molders.—A strike of 1,328 molders, machinists and others at Depew on February 5, 1914, was caused by the discharge of union members who had served on a grievance committee. The Bureau intervened February 10. The company agreed to meet a committee of its employees, and finally consented to confer with union representatives also. But although the strikers did not demand recognition of the union, no proposition for re-employ-

ment offered by the firm was acceptable to them. A number of conferences were held, the mediators attending and suggesting compromise measures. The failure of the final conference on March 29 was due to a lack of agreement on the time limit within which the strikers were to be re-employed. No settlement was made with the strikers and other men were employed in their places.

Gloversville, Glove Cutters.—About 1,200 glove cutters in 150 factories of Gloversville and Johnstown went on strike August 21, 1914, because of the manufacturers' refusal to grant an increase in wages of 25 cents per dozen for men's gloves and 20 cents for women's gloves. Other employees to the number of 3,900 were thrown out of work by the strike. Repeated efforts by the State mediators and by a committee of business men and clergymen were unsuccessful in adjusting the differences. A public investigation was held by the State Board of Mediation and Arbitration from October 5 to 14. In presenting its report the Board recommended a compromise increase in wages. Settlements had been made by six firms employing about 150 cutters. The strikers were willing to make a general settlement on these terms but the manufacturers refused to grant any increase at all under the conditions existing. The strike failed and the strikers returned to work January 20, 1915.

Hornell, Building Trades.—The building trades were working under great uncertainty in Hornell during the latter part of June and the first part of July, 1914. A new building trades council had been formed by the painters', plumbers', bricklayers' and carpenters' unions. The council demanded that all business between the employers in those trades and their employees should be done through the business agent of the council and that the council working card should be recognized on all jobs. The employers refused to treat with the council or with the unions because of their membership in the council and this dispute caused the stopping of work by a few men and reduced considerably the amount of building work in the city. On July 10 the Bureau's representative conferred with both sides separately and convinced the contractors that the best thing for them to do was to deal with and through the local unions as they had been accustomed, regardless of the existence of the council, the unions to take care of council matters themselves. This they did and the controversy was settled.

New York City, Automobile Bodymakers.—On January 28, 1914, 180 automobile body makers in one factory went on strike. The cause of the strike was the discharge of some men, the union claiming that one man in particular was discharged because of his activity in union affairs. The Bureau intervened on February 16, holding consultations with the president of the company and the international president of the union, who was in charge of the strike, as result of which a joint conference was arranged for the following morning. At the conference, the company offered to take back such men as they needed but announced to the committee that the working hours would be increased from 50½ to 51 per week. This proposition was rejected by a vote of the union. Other efforts to arrange a conference were unsuccessful until March 11 and 12. The conference of March 12 was held at the office of the Bureau. The company was represented by its president and two stockholders; the strikers by the president of their international union and a representative of the American Federation of Labor. Terms of settlement were agreed upon, that the men should be reinstated as fast as work could be found in the different departments, and hours of work to remain as before the strike, 50½ per week. The union agreed to accept these terms but after this action some misunderstanding arose and the union voted then to reject the company's offer. On receiving this report the Bureau arranged another conference to try to readjust the trouble. It was arranged that a meeting of the union should be held on March 16 at which the Bureau's agents should be present. This meeting was held and after a long session a secret ballot was taken, resulting in the acceptance of the terms offered on March 12. The strike was then declared at an end and the Bureau assisted in making arrangements for the return of the employees to work. The men returned to work on the 17th.

New York City, Boatmen.—On November 25 and December 16, 1913, demands were made on 180 firms interested in coal transportation by water in New York harbor, by the members of the Tidewater Boatmen's Union, which included in their union nearly all employees in this line of industry, for a flat rate of pay of \$60 per month to take effect January 1, 1914, the rates

paid at the time of the demand being \$40, \$45 and \$50 per month. There were no concessions made by the firms and on January 2 a strike was inaugurated. A majority of the employers arranged for settlement by granting the increase demanded and recognition of the Boatmen's Union. The Bureau's agents were instrumental in arranging conferences and assisting to bring about settlements with several of the parties to the dispute. On March 30 settlement had been arranged by the other firms and practically all strikers had returned to work.

New York City, Boatmen.—On March 30, 1914, 90 boatmen employed in transportation of freight by the Baltimore & Ohio Railroad Company in New York Harbor went on strike demanding recognition of the union and one day's rest in seven. Several efforts were made by the Bureau to bring the contestants together, but the company's agent refused to meet the strikers, stating that the matter had been adjusted to their entire satisfaction. The strike lasted 20 days, during which interval some new men were hired for a short time, finally discharged and the old hands taken back. The men returned to work without the union's approval on the old terms.

New York, Brooklyn, Brass Bed Makers.—A strike of 36 brass bed makers in a Brooklyn factory occurred on November 24. They demanded union recognition and the reinstatement of two men who had been discharged. On December 3 the Bureau's representatives visited the factory, conferred with the president of the company and arranged a conference with the union's business agent. A second conference was held with the president of the company and the union strike committee on December 5, when the demands of the strikers were granted and the difficulty was adjusted.

New York, Brooklyn, Brass Bed Workers.—Twenty-five brass bed workers employed in a Brooklyn factory went on strike August 24, 1914, to enforce a demand for an increase of wages averaging 20 per cent, and for recognition of the union. The Bureau intervened by request of the workers on September 14 and endeavored to arrange a conference, but without success, as the employer refused to confer with the strikers. The firm refused to accede to

the demands and secured other workmen to fill the positions. The places were filled on September 18.

New York, Queens, Bricklayers.—On July 1, 1914, a strike of building trades workers in Queens county was caused by a question of jurisdiction between the bricklayers and plumbers over the work of cutting holes through concrete flooring and the laying of tile sewers in the basement of the building. The Bureau intervened July 14 and arranged several conferences between representatives of the unions and of the superintendent of buildings for the Board of Education. These conferences resulted in settlement of the dispute by an order from the Superintendent of School Buildings which directed that the laying of tile drains should be included in the plumbing work on school buildings. The result was reported as a compromise.

New York, Brooklyn, Chandelier Workers.—The chandelier workers employed by a Brooklyn firm threatened to strike on September 12, 1914, because of the discharge of one man. The union officials claimed that he had been discharged on account of his activity in union work. A conference was arranged by the mediators at the office of the Bureau after intervention had been requested by a union official. It was attended by a representative of the company and the business agent of the union, also the two mediators. It was agreed that the man who was discharged should be re-employed, with the understanding that thereafter he was not to distribute any literature or start any agitation of any kind during working hours, or in the shop. This agreement prevented the strike of 60 employees.

New York City, Children's Dress Makers—On March 17, 1914, 1,350 girls employed in 32 shops controlled by the Independent Manufacturers' Association of Children's and Misses' Dresses went on strike, demanding recognition of the union and an increase of wages. The Bureau's agents arranged two conferences, one on March 24 and the other on March 26. At the latter it was agreed that the union should be recognized and wages advanced, each employer adjusting the wages in question with his own employees. This was accomplished and the strike ended March 30.

New York City, Children's Dress Makers.—Sixty-three children's dress makers employed in one factory went on strike March

17, 1914, demanding recognition of the union and increase of wages. The members of the firm contended that the strike was a violation of a contract between the Manufacturers' Association and the international and local unions, but the union claimed that the contract did not cover the case. Several efforts were made to have a conference between the parties, but without success, until March 31. The union representative suggested that all facts relating to the dispute be taken up by a board of arbitration, but the employers claimed that the strikers had violated the agreement by stopping work before submitting their grievances in the manner prescribed in the agreement, and that there was nothing to arbitrate as long as the strike was in progress. Another conference was held on April 3, but the employer refused to do business with the official who represented the union. It was finally agreed that this man would withdraw from the situation, that the girls on strike might join any union of their choice and that a wage scale would be adjusted to their satisfaction. This was done and the strike ended April 13.

New York City, Cigar Makers.—On February 18, 1914, 28 employees in a cigar factory went on strike because of a reduction in their wages of from one to five dollars per thousand cigars. A request for intervention was received from the workers and the Bureau arranged a conference on April 27, which was attended by representatives of the company and of the International Cigar Makers' Union. At this conference the difficulties were adjusted, the reduction was withdrawn and the strike ended on April 28.

New York City, Cigar Makers.—A strike of 75 cigar makers in a New York factory occurred on March 1, 1914. The cause of the strike was the demand of the firm to manufacture a new brand of cigars at a price which was below what the union considered fair wages. The Bureau intervened by request of the workers on April 23, interviewed the members of the firm and the union officials and arranged a joint conference on April 27. No favorable results followed. On May 7 another joint conference was held at which the firm withdrew its previous offer of an increase in piece price and presented a lower price. This resulted in breaking up the conference. Several efforts were made to renew

the conference but the firm refused to confer again with the union officials. The employers filled their shop with non-union employees, claiming that conditions were normal by July 6, although the union asserted that the strike was still in effect.

New York City, Cloak and Suit Makers.— On June 15, 1914, 25 cloak and suit makers employed by one firm went on strike as the men and the firm could not agree on prices paid for the work. The Bureau's agents arranged a conference on July 7 between representatives of the company and of the union. An understanding was reached in regard to prices and also it was agreed that no strike or lockout should occur thereafter until the matter had been reported to the Bureau of Mediation and Arbitration and the Bureau had had an opportunity to adjust the trouble. This agreement ended the strike and the men returned to work July 8.

New York City, Diamond Workers.— Two hundred diamond cutters and polishers employed by one firm went on strike December 9, 1913, because of the discharge of one employee. On December 30 the Bureau's agents interviewed both sides to the dispute and tried to have a conference but the employer refused to met any of the strikers. Mediation with the strikers separately resulted in their return to work on January 2, ending the strike.

New York City, Egg Inspectors.— On July 23, 1914, 450 men employed as egg inspectors by 160 firms, nearly all of whom were members of the Mercantile Exchange, went on strike, demanding reduction of working hours from 54 to 50 per week and recognition of the union. On July 28 the Bureau's agents intervened, interviewed the parties to the strike and endeavored to bring about an adjustment. At that time a number of small firms, employing 60 people, settled with the union, but with the proviso that the agreement when entered into should hold good only on condition that the majority of the employers consented to the terms and signed trade agreements. Various conferences were arranged between representatives of the employers and the union but the majority of the former refused to accede to the demands of the union. Owing to trade conditions the Bureau advised the men to return to their former employment, which they did, and the strike was declared off on August 18.

New York City, Glove Cutters.— On September 3, 1914, 112 men working as glove cutters in New York City went on strike in 12 shops controlled by the Glove Manufacturers' Association. The cause of the strike was a demand for an increase of 25 cents per dozen for cutting men's gloves and 20 cents for ladies' gloves, also for recognition of the union. When the Bureau's agents intervened on September 9, there was no inclination on the part of the Manufacturers' Association to meet the strikers in conference but on September 17 the mediators succeeded in arranging a joint conference. The manufacturers stated that they could not under any circumstances agree to the increase of wages demanded by the union, while the union officers refused to recede from their demands. At another conference on October 10 it was agreed that a flat increase of 15 cents per dozen gloves would be paid for the cutting of all gloves and a price list was agreed upon. This agreement was ratified and the strike was declared at an end on October 13.

New York City, Hat Frame Makers.— On November 15, 1913, 40 hat frame makers working for one firm struck without making any demands, according to the statement of the employer, but the union contended that the firm had locked out their employees. The Bureau intervened on November 29 and tried to arrange a conference but was not successful as the employer stated that the strike had ended November 22 by the employment of other workers. Other efforts to arrange a conference failed.

New York City, Kosher Butchers.— On January 12, 1914, 40 kosher butchers employed in four shops went on strike, demanding shorter hours and union recognition. An effort had been made to have a general strike in the trade but the men did not go out. The Bureau intervened January 20 and the employers' representative stated that the matter would be adjusted. The strikers returned to work and all the shops were working with normal force of employees on January 22.

New York City, Leather Workers.— Fifty-three fancy leather goods workers employed in one factory went on strike October 18, 1913, when the firm refused to reinstate two employees. The employers stated that the reason for their discharge was incompetency but the strikers believed it was on account of their union

activities. They made additional demands on the firm for reduction of hours and increase of wages. The Bureau's representatives consulted both employer and employees and suggested conferences which resulted in settlement of the strike. Working hours were reduced from 59 to 56 per week and other minor demands were acceded to by the firm, all strikers returning to work on November 6.

New York City, Leather Workers.— On November 18, 1913, the union officials connected with the fancy leather goods workers threatened to call a strike of the 90 workmen employed by one firm unless a man who had been discharged was re-employed. The Bureau intervened, held interviews with the employer and the union business agent and arranged a joint conference in which the trouble was adjusted, thus averting the strike. It was agreed by the union officials that they would not call any strike in the trade without first referring the matter to the Bureau for adjustment.

New York City, Leather Workers.— The union officials on November 22, 1913, threatened to call a strike of 80 fancy leather workers employed by one firm, owing to the discharge of one man and the contemplated discharge of eleven others. The representatives of the Bureau intervened and by mediation with the union business agent and the employers separately succeeded in adjusting the dispute. The discharged man was taken back and the eleven others were placed on part time. No strike occurred.

New York City, Machinists and Others.— On July 14, 1914, 12 machinists employed in the erection of printing presses in the building for the Carey Printing Company went on strike. The object of the strike was to enforce a reduction of working hours in the factory of the Whitlock Printing Press Company of Shelton, Conn., which had manufactured the presses being erected for the Carey Company. A sympathetic strike was ordered on the building which caused the displacement of 200 building mechanics, who were out ten days and then ordered back to work. On July 20 the Bureau intervened by request from the employers. The employers and the union officers were interviewed and a conference arranged on July 31. The mediator presented a plan for reduction of hours in settlement of the differences between

the Whitlock Company and its employees in New York and Shelton, Conn. This proposition was accepted by both sides and ended the strike in New York and also the strike of 150 machinists and apprentices at Shelton, Conn.

New York City, Mail Drivers.—On October 27, 1913, a strike of mail chauffeurs occurred in New York City. The Bureau intervened the following day and was informed at union headquarters that 80 or 90 men had been locked out by the officers of the Postal Transfer Service, Inc. The company was likewise interviewed but refused to meet the men, saying that the strikers' places had been filled. They stated that the company had 132 drivers and 29 of them had gone on strike without making any complaints or demands.

New York City, Neckwear Workers.—On August 1, 1914, a demand was made on two firms in New York, by members of the Cutters' and Neckwear Makers' Union, for an increase in wages, reduction of hours and recognition of the union. The refusal of two firms to accede to their demands caused a strike on August 5 of 103 cutters, operators and pressers. During the strike one firm moved their factory to Newburgh. The Bureau's agent promptly intervened and arranged numerous conferences with the members of the firms, officers of the union and a representative of the American Federation of Labor. The final conference was arranged by the mediator on October 12, at which time an agreement was reached whereby the firm which had moved to Newburgh agreed to return to their former place of business and practically all the other conditions requested in the original demand were granted, and the strike came to an end on October 14 and 22.

New York City, Painters.—On September 2, 1914, 9,500 painters went on strike in New York City, demanding increase of wages from \$18.70 to \$20 per week. The Bureau's agents interviewed both parties, urging a joint conference, but neither side was willing at that time to go into a conference. On September 12 a letter was sent to representatives of the union and the contractors' association, requesting them to meet that evening at the office of the Bureau of Mediation and Arbitration in joint conference for the purpose of adjusting the difficulty existing in the

trade. The conference was held in response to the letter and a compromise proposition made as follows: "The weekly wage scale to be \$19.25 for the present. Further increases to be granted on the 15th of August 1915 and 1916, respectively." The proposition was referred to the union and the employers' association. The agreement was ratified and a contract agreed upon. The men returned to work September 16.

New York City, Sheet Metal Workers.—On September 26, 1914, twelve sheet metal workers employed in an ash can factory went on strike, demanding a week of 54 hours instead of 59 and recognition of the union. On October 2 the Bureau's agents arranged a conference attended by the union's business agent and the employer, at which an understanding was reached whereby the strike was ended and the men returned to work October 5. The result was a compromise; the union was recognized but the hours of labor were not reduced.

New York City, Sheet Metal Workers.—On September 26, 1914, 12 sheet metal workers employed in another ash can factory went on strike demanding union recognition and reduction of working hours from 59 to 54 per week. On October 2 the Bureau's agent visited both sides to the controversy, which resulted in the arrangement of a conference at which the union's demands were granted and the men returned to work October 5.

New York, Brooklyn, Shoe Cutters.—A dispute arose in the shoe factories in Brooklyn during the month of April, 1914, concerning the wages to be paid on several cutting operations. There were five firms affected, employing a total of 1,615 workpeople, 119 of whom were in the departments directly affected. The mediator of industrial disputes was requested by the Shoe Manufacturers' Association and the shoe cutters to act as arbitrator. The manufacturers and the shoe cutters each had two representatives at the meeting. Ten points in dispute were settled by the arbitrator in his decision of April 23.

New York, Brooklyn, Shoe Cutters.—In June, 1914, 17 shoe cutters employed in one factory having a total of 150 employees objected to the piece prices. The union requested the Industrial Mediator to act as fifth man on the arbitration board for the pur-

pose of adjusting prices, the request being approved by the Shoe Manufacturers' Association. The price list arbitrated contained 150 items. Decision was rendered on June 24.

New York, Brooklyn, Shoe Cutters.—In September, 1914, a wage dispute arose in five shoe factories which employed 1,550 workers altogether, 92 of them in the departments where the dispute originated. The manufacturers' association requested the services of the Industrial Mediator to act as arbitrator, stating that he would be acceptable to the employees. The mediator acted as arbitrator of the board with two representatives from each side, and rendered his decision on October 1.

New York, Brooklyn, Shoe Cutters.—On April 13, 1914, 65 shoe cutters and lasters employed in one factory went on strike, demanding union recognition and adjustment of the wage scale. The men's contention was really for union recognition as the company was willing to discuss the question of wages but refused to consider jointly with the union officials the question of recognition of the union. After considerable effort by the Bureau's representatives, a conference was arranged. It was attended by three representatives of the employers and three members of the union. As a result of this conference both sides met later and the demands of the union were granted. The strikers returned to work May 11.

New York, Brooklyn, Shoe Cutters.—On June 8, 1914, 30 cutters and fitters employed in one shoe factory went on strike. The cause of the strike was a demand for an increase in prices of one-half cent on each pattern for cutting. On June 11, 220 other workers struck in sympathy with the original strikers but returned to work on the 20th. The Bureau's agents intervened June 16 and urged the cutters and fitters to return to work and agree to arbitration of the question at issue. This was done, ending the strike on June 29.

New York City, Shoe Salesmen.—On November 2, 1913, 150 shoe salesmen employed in 35 stores went on strike, demanding union recognition, shorter working time and the right to display the union sign in the store. On November 5 the Bureau's representatives visited both sides to the controversy and urged a con-

ference to adjust their troubles. Both parties finally consented. A conference was held and a compromise reached, the East Side Shoe Dealers' Association recognizing the union and granting shorter hours, but not the right to place the union card in the store windows. This ended the strike on November 14.

New York City, Smoking Pipe Makers.—A strike of 210 smoking pipe makers in one factory occurred June 15, 1914, because one man had been discharged. After the strike had been inaugurated the union demanded that the firm publish in the shop the prices paid for piece work. The Bureau intervened on June 22 and endeavored to arrange a conference between the employer and a committee of strikers but the employer refused to meet the committee or in any way to recognize the union. He offered terms of re-employment which were not accepted until August 10 when the strikers returned to work.

New York City, Tailors.—On December 1, 1913, 4,600 tailors and cutters employed in 45 contractors' shops went on strike, demanding union conditions in the shops, shorter working time for the cutters and recognition of the union. The Bureau's representatives intervened on December 8, interviewed the manufacturer and the union business agent, and urged the need of a conference in order to adjust the difficulty. This suggestion was carried out and the conference was held on December 12, resulting in the granting of the demands and settlement of the strike.

New York City, Tailors.—Twenty-four tailors employed by two firms in making coat fronts went on strike on December 28, 1913, because of the discharge of an errand boy in one shop and the discharge of Hebrew tailors in the other shop. The union believed it to be an effort to force one special nationality out of the trade. The Bureau intervened on January 28 but both firms refused to meet their former employees, stating that they intended to conduct open shops. The strike lasted for one month, by which time the places of the strikers had all been filled.

New York City, Tailors.—One hundred tailors working for one firm went on strike March 26 against violation of a trade agreement by the firm in requiring 52 hours of work per week instead of 50. The Bureau intervened on April 25 and interviewed both parties. The employers stated that the strike had

ended, the strikers' places having been filled, and refused to consider holding a conference, although the union claimed that the strike was still on.

New York City, Tailors.— On September 15, 1914, 25 tailors employed in one shop went on strike. The firm stated the cause of the strike to be their refusal to sign a new trade agreement with the union and their purpose to run an open shop. The union stated that there was a purpose on the part of the employer to change the system of working and that they were forced to leave the shop. The Bureau intervened on November 25 and requested the employer to confer with the strikers but he refused to do so. The firm reported that the strike ended September 25 when the strikers' places had all been filled.

New York City, Taxicab Drivers.— Forty chauffeurs employed by a taxicab company went on strike November 6, 1913, to obtain a signed trade agreement with the Chauffeurs' Union. On November 14 the Bureau arranged a joint conference between representatives of the employers and the union. The conference did not result favorably as the company's attorneys refused to recognize the union. On November 21 the company reported that conditions were normal and the strikers' places had been filled.

New York City, Teamsters.— On December 1, 1913, 209 teamsters employed by the East Side Furniture Dealers' Association went on strike to compel the Herrmann Furniture Company to sign a trade agreement with the union. After the strike had been inaugurated, the union officials made a demand for payment for all overtime after regular hours. The Bureau intervened on the same day, attended a meeting of the dealers' association and urged the necessity of going into a conference to end the strike. The Herrmann Company claimed there was nothing to settle as the places of the men had been filled. On December 6 the Furniture Dealers' Association through their counsel notified the Bureau that they were willing to go into conference with the strikers. The union officials were so notified by the Bureau and on December 7 the union and the association held a conference wherein the matter of paying extra for overtime was agreed to, and the strike of the nine drivers of the Herrmann Furniture Company was

referred to the Bureau for settlement. This ended the general strike involving 200 drivers. The Bureau held a conference with that company and they agreed to re-employ three of the strikers but would not agree to recognize the union. This offer was rejected by the union. After another conference between the dealers' association and the union, the Bureau arranged a conference of union officials with the Herrmann Company but no terms of settlement were reached.

New York City, Teamsters.—Seventy-five teamsters employed by three firms went on strike April 14, 1914. They demanded an increase in wages and a signed trade agreement. The Bureau's representatives, responding to a request, intervened in the dispute on June 1. All efforts to arrange a joint conference failed because of the employers' refusal to meet the strikers. One company offered to re-employ their men as individuals, not as unionists, at the former wages. The union officials rejected this and other similar offers. All the firms employed other men and stated that their business was in normal condition by May 1.

New York City, Umbrella Handle Makers.—Six hundred umbrella handle and cane makers in New York City went on strike October 8, 1913, followed on the 11th by 300 silversmiths who struck in sympathy. A demand was made after the strike occurred for a 49-hour week for the original strikers. The Bureau intervened October 17 and found the strikers willing to go into a conference but the manufacturers at first refused. The first joint conference was arranged on November 12. Subsequently, a number of conferences were held and terms of settlement were adopted by the committees but were not ratified by the union and the manufacturers' association. The terms offered by the manufacturers were a 53-hour week for umbrella handle makers and silversmiths to work 51 hours per week. The strikers demanded a 49-hour week. On January 10 the attorneys representing the association and the union met in conference and agreed to a reduction of hours to 51 per week for all. The strike was declared at an end and the men returned to work January 14.

New York City, Umbrella Makers.—On March 25, 1914, 50 umbrella makers employed by one firm went on strike, demanding

union recognition and increase of wages. Two days later the Bureau intervened and after separate interviews with the parties succeeded in arranging conferences. The final conference, on April 27, resulted in an agreement. The wage scale was adjusted on the lines proposed by the Bureau's agents and all strikers returned to work. A trade agreement was signed by the parties.

New York, Brooklyn, Yard Conductors and Trainmen.—On April 15, 1914, a strike was caused by the refusal of a demand for increase of wages for 86 yard conductors and trainmen employed by three terminal railroad companies in Brooklyn. The Bureau's agents intervened the following day and endeavored to bring about a settlement but without success. Two of the companies claimed to have filled the strikers' places in one week's time and refused to meet or treat with their former employees. The other company made a settlement by signing a trade agreement with representatives of the Brotherhood of Railroad Trainmen. The principal terms of the agreement were reinstatement of all employees on strike and an increase in wages.

Olean, Plumbers.—On May 15, 1914, 22 plumbers employed by the Master Plumbers' Association went on strike for increase in wages from \$3.50 to \$4 per day. On June 14 a request for intervention by the Bureau was received. The mediator attended a conference of the parties but neither side was willing to make any concessions. The mediator recommended that the parties refer their dispute to arbitration, two men to be selected by the Master Plumbers' Association, two by the Plumbers' Union and the four so selected to select a fifth, a majority decision of the board to be final and binding on both parties. This was agreed to by both sides and on June 19 the award was rendered: \$3.75 to be the regular rate of wages from June 19, 1914 to June 1, 1915; from June 1, 1915 and for three years thereafter the wages to be \$4 per day.

Rochester, Garment Workers.—Thirty-nine garment workers employed by one firm struck on January 26, 1914, against a change from week work to piece work, causing a reduction in wages for six employees. The Bureau intervened in response to a re-

quest and arranged a conference between the contractor and the union representatives. The contractor refused to re-employ any of the strikers unless they came back willing to accept piece work. The employees refused to do this and continued the strike until March 7, when they returned to work with the understanding that the week work system was to be continued.

Rochester, Garment Workers.—In February, 1914, a request was received for an investigation into certain complaints made by a representative of the United Garment Workers of America against several clothing manufacturers of Rochester, that they were not living up to the conditions conceded at the expiration of the strike on March 22, 1913. One of the mediators went to Rochester and investigated each complaint separately. Some of the complaints were found to be justified and the manufacturers arranged to comply with the conditions demanded. All the manufacturers visited stated their willingness to meet the employees or committees of their employees to adjust their grievances at all times.

Rochester, Garment Workers.—Sixty-four garment workers employed by one firm struck on July 22, 1914, against the discharge of a presser. The Bureau intervened by request on September 1, interviewed the employer and the union representative and sought to arrange a conference. The employer stated that they had secured sufficient help in the strikers' places and refused to re-employ any of the strikers or to meet or treat with them.

Schenectady, Laborers.—On June 1, 1914, 500 laborers employed by several contractors on city improvement work in Schenectady went on strike, claiming that some of the contractors were employing non-union men and others were not paying union wages. The Bureau intervened on June 3 and arranged a conference between a representative of the principal contractor and the president of the Hod Carriers' International Union. A tentative understanding was reached and the men returned to work June 5.

Troy, Carpenters.—Having failed to agree with the contractors upon the terms of a new agreement, 530 carpenters and woodworkers employed by 40 firms went on strike when the old agreement expired on April 1, 1914. The Bureau's mediator arranged

several conferences between the employers and employees. At each conference some concession was made by the employers but not until the final conference on May 13 was there enough granted to satisfy the demands of the strikers. Their demands included 50 cents instead of 45 cents per hour, changes in the working rules and a three-year agreement. The settlement was a compromise, wages being increased to 50 cents per hour but no changes to be made in the working rules and the agreement to cover five years.

Troy, Iron Workers.—A reduction of wages was made in an iron mill of Troy in January, 1914, which affected 200 of the 1,300 iron workers employed. In June the company announced a general reduction of wages of the remaining employees to go into effect June 22, one week before the plant was expected to close, as was customary, for the summer. The reductions were not accepted and the company closed its plant on June 20. On August 3, the general manager announced to the employees that the company was ready to resume operations. The employees wished to enter into further negotiations, but the manager would not receive their committees, insisting that the company would treat only with all its employees in a body. The Bureau intervened September 9 and arranged a meeting between the manager and all the employees, organized and not organized. No concessions were offered by the firm and the employees were not willing to return at the reduced rates offered. The 200 men whose wages had been reduced in January also demanded that part of that reduction be restored. The plant was not re-opened until October, when the manager and employees resumed direct negotiations and the employees returned to work.

Utica, Cotton Weavers.—A strike of 620 weavers employed in a cotton mill at Utica occurred on November 14, 1913. The cause was a dispute between weavers and loomfixers, with demands for discharge or reinstatement of certain loomfixers and weavers. A representative of the Bureau intervened on November 24 but was unable to bring about a settlement. On the 29th he arranged a conference between the superintendent of the mill and representatives of the local and national unions. A satisfactory agreement was reached, the company agreeing to reinstate all the strikers except the one for whose reinstatement the weavers went on strike.

Utica, Teamsters. The teamsters of Utica notified their employers on January 1, 1914, of a demand for increase in wages to take effect April 1. When the employers refused to grant the increase, 375 teamsters employed by 40 firms went on strike, which caused almost complete suspension of trucking and coal transportation in the city. On April 2 the president of the teamsters' international union requested the intervention of the Commissioner of Labor and one of the mediators went to Utica. The employers had formed two independent organizations. The trucking firms offered an increase of one dollar per week and refused any further concessions. The association of coal, material and lumber dealers at first refused to meet or treat in any manner with the strikers, but the mediator succeeded in arranging conferences and suggested that the whole matter be referred to arbitration, also suggesting that the trucking firms be invited to act jointly on the arbitration proposal. These terms were accepted and the strike was immediately ended.

White Plains, Carpenters.—Carpenters in White Plains, to the number of 300, went on strike May 1, 1914, to enforce their demands made on February 1 for increase of wages from \$4 to \$4.50 per day. The union desired to hold conferences but the Master Carpenters' Association refused. The Bureau intervened May 21, interviewed both sides and endeavored to arrange a conference. At the Builders' Exchange it was said that the condition of the trade would not warrant the increase, and the employers declined to meet the union officials in conference. The union, however, won a partial victory because many outside contractors employed their men at the increased rate. On May 28 the strike was ended, as the 40 men who were still idle were out of work because of lack of sufficient work.

Yonkers, Bakers.—The union bakery workers of Yonkers on April 1, 1914, demanded an increase of wages of \$1 per week, a decrease of working hours one hour per day and a signed trade agreement. On May 1, 20 of the master bakers employing 106 men had granted the demands while four others refused to do so. The 18 bakers employed by these four firms went on strike. The Bureau intervened May 1 and arranged a conference which was

attended by three of the employers and three members of the union. The union officials refused to make any concessions as the greater number of employers had granted the full demands. After the conference the three employers accepted the terms of the union and the other firm employed new men in the strikers' places. The strike was ended June 1.

TABULAR SUMMARY

LOCALITY	Trade involved	Date of strike (actual or threatened)	Number of employees affected	Date of intervention
Albany.....	Brewery employees..... (Not a strike)	Dec. 31, 1913	65	Dec. 30, 1913
Albany.....	Machinists.....	Dec. 18, 1913	37	Dec. 17, 1913
Albany.....	Teamsters.....	May 1, 1914	200	April 27, 1914
Altman.....	Laborers.....	July 20, 1914	200	July 22, 1914
Buffalo.....	Garment workers.....	Aug. 1, 1914	20	Sept. 3, 1914
Depew.....	Molders, machinists, etc.....	Feb. 5, 1914	1,328	Feb. 10, 1914
Gloversville.....	Glove cutters.....	Aug. 21, 1914	1,000	Aug. 27, 1914
Hornell.....	Building trades..... (Not a strike)	June-July, '14	.....	July 10, 1914
New York City.....	Automobile body makers.....	Jan. 28, 1914	180	Feb. 16, 1914
New York City.....	Boatmen, etc.....	Jan. 2, 1914	2,000	Feb. 6, 1914
New York City.....	Boatmen.....	Mar. 30, 1914	90	April 2, 1914
New York City.....	Brass bed workers.....	Aug. 24, 1914	25	Sept. 14, 1914
New York City.....	Bricklayers, plumbers, etc.....	July 1, 1914	50	July 14, 1914
New York City.....	Chandelier workers..... (Not a strike)	Sept. 12, 1914	60	Sept. 12, 1914
New York City.....	Children's dressmakers.....	Mar. 17, 1914	63	Mar. 20, 1914
New York City.....	Children's dress makers.....	Mar. 17, 1914	1,350	Mar. 20, 1914
New York City.....	Cigar makers.....	Feb. 18, 1914	28	April 24, 1914
New York City.....	Cigar makers.....	Mar. 1, 1914	75	April 24, 1914
New York City.....	Cloak and suit makers.....	June 15, 1914	25	June 30, 1914
New York City.....	Diamond cutters and polishers	Dec. 9, 1913	200	Dec. 30, 1913
New York City.....	Egg inspectors.....	July 23, 1914	450	July 27, 1914
New York City.....	Furniture teamsters.....	Dec. 1, 1913	209	Dec. 1, 1913
New York City.....	Glove cutters.....	Sept. 3, 1914	110	Sept. 9, 1914
New York City.....	Hat frame makers.....	Nov. 15, 1913	40	Nov. 29, 1913
New York City.....	Koaher butchers.....	Jan. 12, 1914	40	Jan. 20, 1914

OF INTERVENTIONS

Result of intervention	Result of strike
Suggestion made by mediator and accepted by both parties, that dispute be referred to arbitration; mediator chosen as seventh member of arbitration board; satisfactory decision. (Intervention before strike; intervention requested.)	No strike occurred; compromise decision.
Efforts to arrange conference before strike unsuccessful; afterward conference arranged between general manager and committee of strikers, unsuccessful. (Intervention before strike; intervention requested.)	Strike failed; force permanently reduced.
Conference arranged, unsuccessful; mediation resulted in strikers' acceptance of employers' offer to arbitrate; arbitration successful. (Intervention before strike; intervention requested.)	Compromise increase of wages.
Conference arranged between superintendent and committee of strikers, which resulted in settlement. (Intervention requested.)	Compromise settlement.
Attempts to arrange conference unsuccessful; employer refused to meet or treat with strikers. (Intervention requested.)	Strike failed; places filled.
Conferences arranged and terms for settlement proposed; unsuccessful.	Strikers returned to work or their places were filled.
Efforts to arrange conference unsuccessful as manufacturers refused to treat with strikers; public investigation held by State Board of Mediation and Arbitration; compromise increase of wages recommended; accepted by strikers but rejected by manufacturers.	Strike failed; strikers returned to work January 20.
Mediation with both parties separately, resulted in settlement. (Intervention before strike.)	No strike occurred.
Conferences arranged between officers of company and of local and international unions, resulting in settlement.	Demands granted; all men re-employed.
Conferences between employers and union officials, which resulted in settlement for several of the firms involved.	Wages increased as demanded for about 1,900 of the strikers.
Efforts to arrange conference unsuccessful; employers' agent refused to meet strikers.	Strike unsuccessful; strikers returned to work.
Efforts to arrange conference unsuccessful; employer refused to meet strikers. (Intervention requested.)	Strike unsuccessful; places filled with new employees.
Conferences arranged between representatives of unions and employers, resulting in compromise settlement.	Compromise settlement.
Conference arranged between representative of employer and union official, which resulted in settlement. (Intervention before strike; intervention requested.)	No strike occurred; discharged man re-employed with understanding that he should not start any agitation during working hours or in shop.
Conference arranged between representatives of employers and union resulting in settlement.	Strike successful; union recognised and wages increased.
Conferences arranged between committees from manufacturers' association and union, resulting in settlement.	Wages increased and union recognised.
Conference arranged between representatives of company and of international union, which resulted in settlement. (Intervention requested.)	Strike successful.
Conferences arranged between representatives of firm and union but no settlement reached. (Intervention requested.)	Strike failed; places of strikers filled with new employees.
Conference arranged between employer and union representatives resulting in settlement.	Demands of strikers granted.
Attempts to arrange conference unsuccessful; mediation resulted in strikers' return to work.	Strike unsuccessful.
Conferences arranged between employers and union officers unsuccessful; mediation with parties separately led to strikers' return to work.	Strike failed.
Conference arranged between employers' association and union, resulting in settlement of general strike; original dispute referred to Bureau and conference of parties arranged, but failed of settlement.	Compromise settlement of general strike affecting 200 drivers.
Conferences arranged between employers and union representatives, resulting in settlement.	Compromise increase in wages.
Attempts to arrange conference unsuccessful; employer refused to meet union officials and claimed places had been filled.	Strike unsuccessful; places filled.
Parties were interviewed; conciliation unsuccessful.	Strike unsuccessful.

TABULAR SUMMARY OF

LOCALITY	Trade involved	Date of strike (actual or threatened)	Number of employees affected	Date of intervention
New York City.....	Leather workers.....	Oct. 18, 1913	53	Oct. 23, 1913
New York City.....	Leather workers..... (Not a strike)	Nov. —, 1913	90	Nov. 18, 1913
New York City.....	Leather workers..... (Not a strike)	Nov. —, 1913	80	Nov. 22, 1913
New York City.....	Machinists and building trades	July 1, 1914	212	July 20, 1914
New York City.....	Mail drivers.....	Oct. 27, 1913	29	Oct. 27, 1913
New York City.....	Metal bed makers.....	Nov. 24, 1913	36	Dec. 3, 1913
New York City.....	Neckwear workers.....	Aug. 5, 1914	103	Aug. 10, 1914
New York City.....	Painters.....	Sept. 2, 1914	9,500	Sept. 4, 1914
New York City.....	Sheet metal workers.....	Sept. 26, 1914	12	Oct. 2, 1914
New York City.....	Sheet metal workers.....	Sept. 26, 1914	12	Oct. 2, 1914
New York City.....	Shoe cutters and lasters.....	April 13, 1914	65	April 14, 1914
New York City.....	Shoe cutters and others.....	June 8, 1914	250	June 16, 1914
New York City.....	Shoe cutters and others..... (Not a strike)	June —, 1914	150	June 24, 1914
New York City.....	Shoe cutters and others..... (Not a strike)	Sept. —, 1914	1,550	Oct. 1, 1914
New York City.....	Shoe workers..... (Not a strike)	April —, 1914	1,615	April 23, 1914
New York City.....	Shoe salesmen.....	Nov. 2, 1913	150	Nov. 5, 1913
New York City.....	Smoking pipe makers.....	June 15, 1914	210	June 22, 1914
New York City.....	Tailors and cutters.....	Dec. 1, 1913	4,600	Dec. 8, 1913
New York City.....	Tailors.....	Dec. 28, 1913	24	Jan. 28, 1914
New York City.....	Tailors.....	Mar. 26, 1914	100	April 25, 1914
New York City.....	Tailors.....	Sept. 15, 1914	25	Nov. 25, 1914
New York City.....	Taxicab drivers.....	Nov. 6, 1913	40	Nov. 7, 1913
New York City.....	Teamsters.....	April 14, 1914	75	June 1, 1914
New York City.....	Umbrella handle makers.....	Oct. 8, 1913	900	Oct. 16, 1913
New York City.....	Umbrella makers.....	Mar. 25, 1914	50	Mar. 27, 1914
New York City.....	Yard conductors and trainmen	April 15, 1914	86	April 16, 1914
Olean.....	Plumbers.....	May 15, 1914	22	June 16, 1914
Rochester.....	Garment workers.....	Jan. 26, 1914	33	Feb. 23, 1914
Rochester.....	Garment workers..... (Not a strike)	.....	.....	Feb. 17, 1914

INTERVENTION3—(Continued)

Result of intervention	Result of strike
Conferences suggested which resulted in settlement. (Intervention requested.)	Strike successful; hours reduced and wages increased.
Conference arranged between employer and union representative resulting in settlement. (Intervention before strike; intervention requested.)	No strike occurred.
Mediation with employers and union representative separately resulted in settlement. (Intervention before strike.)	No strike occurred; compromise settlement.
Conferences arranged and plan for settlement suggested which resulted in settlement.	Strike successful.
Attempts to arrange conference unsuccessful as employers claimed strikers' places had been filled.	Strike failed.
Conference arranged between president of company and union business agent, resulting in settlement.	Demands of strikers granted.
Conferences arranged between employers and union representatives which resulted in settlement; firm which had moved its factory out of town returned to New York. (Intervention requested.)	Wages increased, hours reduced and union recognised as demanded.
Conference arranged between representatives of employers and union and resulted in settlement.	Compromise increase of wages granted; agreement signed which provided for further increase in 1915.
Conference arranged between employer and union business agent which resulted in settlement.	Compromise; union recognised but hours not reduced.
Conference arranged between employer and union officials, resulting in settlement.	Demands of strikers granted.
Conference arranged between employer and union representatives; settlement reached.	Demands granted for union recognition and adjustment of wage scale.
Mediation with strikers separately resulted in their consent to arbitration.	Strike unsuccessful.
Arbitration of disputed prices by request of both parties. (Intervention before strike; intervention requested.)	No strike occurred; decision of arbitrator satisfactory.
Arbitration of disputed prices by request of both parties. (Five firms involved. Intervention before strike; intervention requested.)	No strike occurred; decision of arbitrator satisfactory.
Arbitration of disputed prices in response to request of the parties. (Five firms involved; intervention before strike; intervention requested.)	No strike occurred; decision of arbitrator satisfactory.
Conferences arranged which resulted in settlement.	Compromise settlement with union recognition.
Efforts to arrange conference unsuccessful; employer refused to meet committee of strikers.	Strike failed; strikers returned to work.
Conciliation resulted in conference between manufacturer and union officials; settlement followed.	Demands of strikers granted.
Attempts to arrange conference unsuccessful; firms refused to confer and stated their purpose to conduct open shops.	Strike unsuccessful; places filled with new employees.
Efforts to arrange conference unsuccessful as employers refused to meet former employees.	Strike failed; places filled with new employees.
Attempts to arrange conference unsuccessful, employer refused to meet strikers, claiming that their places were filled.	Strike failed.
Conference arranged but not successful as employer refused to recognise the union.	Strike failed; places filled.
Mediation and efforts to arrange conferences unsuccessful. (Intervention requested.)	Strike failed; places filled with new employees.
Conferences arranged between strike committee and representatives of employers' association, resulting in settlement.	Compromise reduction of hours.
Conferences arranged between employers and union representatives; adjustment of wage scale proposed; settlement reached.	Demands granted; union recognized and wages increased.
Efforts to arrange conference unsuccessful; all three employers refused to meet strikers.	Wages increased for 28 strikers; strike failed for others.
Mediation with both parties in joint conference; plan of arbitration suggested was accepted and resulted in settlement. (Intervention requested.)	Compromise increase of wages.
Conference arranged between employer and union officials; unsuccessful. (Intervention requested.)	Pending.
Complaints of union that employers were not living up to agreement were investigated and conditions rectified where it was found complaints were justified. (Intervention before strike; intervention requested.)	No strike occurred; satisfactory settlement of dispute.

TABULAR SUMMARY OF

LOCALITY	Trade involved	Date of strike (actual or threatened)	Number of employees affected	Date of intervention
Rochester	Garment workers.....	July 22, 1914	64	Sept. 1, 1914
Schenectady.....	Laborers.....	June 1, 1914	500	June 3, 1914
Troy.....	Carpenters.....	April 1, 1914	530	April 8, 1914
Troy.....	Iron workers.....	Aug. 3, 1914	200	Sept. 9, 1914
Utica.....	Cotton weavers.....	Nov. 14, 1913	620	Nov. 24, 1913
Utica.....	Teamsters.....	April 1, 1914	375	April 3, 1914
White Plains.....	Carpenters.....	May 1, 1914	300	May 21, 1914
Yonkers.....	Bakers.....	May 1, 1914	18	May 1, 1914

INTERVENTIONS—(Concluded)

Result of intervention	Result of strike
<p>Attempts to arrange conference unsuccessful; employer claimed strikers' places had been filled. (Intervention requested.)</p> <p>Conference arranged between contractor and president of international union resulting in settlement; strikers returned to work.</p> <p>Conferences arranged between employers' and employees' committees, the final conference resulting in agreement.</p> <p>Mediation with parties separately; conference arranged between general manager and employees, unsuccessful.</p> <p>Conference arranged which resulted in settlement.</p> <p>Arbitration arranged for on suggestion of mediator after conferences had proved unsuccessful. (Intervention requested.)</p> <p>Members of employers' association were asked to meet strikers but refused to do so.</p> <p>Conference arranged between employers and union officials; settlement reached in all but one shop.</p>	<p>Strike failed.</p> <p>Strike failed; tentative plan for drawing up agreement not carried out.</p> <p>Compromise; wages increased as demanded; no changes in working arrangements; contract for five years.</p> <p>Not reported.</p> <p>Strike unsuccessful.</p> <p>Compromise increase in wages.</p> <p>Most of strikers returned to work with increased wages as demanded.</p> <p>Wages increased as demanded for 10 strikers.</p>

COMPARATIVE SUMMARY OF INTERVENTIONS

(A) INITIATIVE, AND TIME RELATIVE TO STOPPAGE OF WORK

PERIOD		Number of disputes in which there was intervention	NUMBER OF CASES IN WHICH BUREAU ACTED —					NUMBER OF INTERVENTIONS		
			On its own initiative	UPON REQUEST —				BEFORE STOPPAGE OF WORK		After strike or lockout
				From employers	From work-people	From both parties	Total	Not followed by strike or lockout	Followed by strike or lockout	
June-Dec., 1886.	7	5	.....	1	1	2	1	.....	6
Jan.-Oct., 1887.	14	7	4	3	.....	7	.....	1	13
1888.	17	13	2	2	.....	4	1	1	15
1889.	16	11	2	2	1	5	2	3	11	
1890.	17	10	1	5	1	7	.....	.....	17
1891.	7	4	1	2	.....	3	.....	.....	7
1892.	11	7	1	3	.....	4	.....	.....	11
Year ended Oct. 31	1893.	10	9	.....	1	1	.....	2	8
1894.	18	15	.....	1	2	3	2	.....	16
1895.	27	22	2	1	2	5	2	1	24	
1896.	17	16	1	.....	.....	1	1	1	15
1897.	30	26	.....	3	1	4	4	.....	26
1898.	19	18	.....	1	.....	1	1	.....	18
Nov., 1898-Dec., 1899.	31	25	1	5	.....	6	4	2	25
1900.	33	28	1	4	.....	5	1	2	30
Jan.-Sept., 1901.	17	14	1	2	.....	3	.....	1	16
1902.	32	26	1	5	.....	6	1	.....	31
1903.	28	22	.....	6	.....	6	.....	.....	28
1904.	8	7	.....	1	.....	1	.....	.....	8
1905.	10	7	.....	2	1	3	1	.....	9
Year ended Sept. 30	1906.	20	17	.....	3	1	1	1	18
1907.	54	42	.....	12	.....	12	6	.....	48
1908.	68	57	2	8	1	11	1	4	63	
1909.	77	69	1	6	.....	*8	2	6	69
1910.	92	77	3	11	.....	*15	1	8	83
1911.	76	58	3	15	.....	18	4	4	68
1912.	63	48	3	11	1	15	5	1	57	
1913.	68	46	9	9	1	*22	7	2	59	
1914.	62	42	1	15	4	20	9	2	51	

* Including requests from outside parties.

(B) RESULTS, AND MEANS OF SETTLEMENT

PERIOD		Unsuccessful inter- ventions	SUCCESSFUL INTERVENTIONS			SETTLEMENTS By —	
			Without strikes or lockout	After strike or lockout	Total	Con- cilia- tion	Arbi- tra- tion
June-Dec.,	1886	.....	1	6	7	3	4
Jan.-Oct.,	1887	10	.....	4	4	2	2
	1888	9	1	7	8	6	2
	1889	11	2	3	5	1	4
	1890	10	.....	7	7	6	1
	1891	6	.....	1	1	1	.....
	1892	7	.....	4	4	3	1
	1893	6	.....	4	4	4	.....
Year ended	1894	6	2	10	12	10	2
Oct. 31.	1895	20	2	5	7	5	2
	1896	13	1	3	4	4	.....
	1897	14	4	12	16	13	3
	1898	8	1	10	11	11	.....
Nov., 1898-Dec.,	1899	14	4	13	17	16	.....
	1900	21	1	11	12	12	.....
Jan.-Sept.,	1901	11	.....	6	6	6	.....
	1902	20	1	11	12	11	1
	1903	20	.....	8	8	8	.....
	1904	5	.....	3	3	1	.....
	1905	4	1	5	6	5	1
	1906	14	1	5	6	6	.....
Year ended	1907	37	2	15	17	17	.....
Sept. 30.	1908	52	3	13	16	14	2
	1909	58	1	18	19	19	.....
	1910	70	.....	22	22	22	.....
	1911	55	2	19	21	20	1
	1912	28	4	33	37	36	1
	1913	29	7	32	39	37	2
	1914	21	9	32	41	37	4

(C) INTERVENTIONS AND SETTLEMENTS COMPARED WITH TOTAL STRIKES AND LOCKOUTS

PERIOD	Total strikes and lockouts reported	INTERVENTIONS		SETTLEMENTS	
		Number	Per 100 strikes and lockouts	Number	Per 100 strikes and lockouts
June-Dec., 1886.....	350	7	2.0	7	2.0
Jan.-Oct.,.....	1887.....	14	2.7	4	.8
	1888.....	17	6.0	8	2.8
	1889.....	16	3.7	5	1.1
	1890.....	17	2.1	7	.9
	1891.....	7	.9	1	.1
	1892.....	11	2.4	4	.9
Year ended	1893.....	10	2.6	4	1.0
Oct. 31...	1894.....	18	4.2	12	2.8
	1895.....	27	7.5	7	1.9
	1896.....	17	7.9	4	1.9
	1897.....	30	12.1	16	6.5
	1898.....	19	6.8	11	3.9
Nov., 1898-Dec.,	1899.....	31	10.4	17	5.7
	1900.....	33	10.1	12	3.7
Jan.-Sept.,.....	1901.....	17	13.5	6	4.8
	1902.....	32	22.5	12	8.5
	1903.....	28	13.9	8	4.0
	1904.....	8	6.5	3	2.4
	1905.....	10	6.5	6	3.9
	1906.....	20	8.2	6	2.4
Year ended	1907.....	54	19.1	17	6.0
Sept. 30.	1908.....	68	42.5	16	10.0
	1909.....	77	43.8	19	10.8
	1910.....	92	36.8	22	8.8
	1911.....	76	35.3	21	9.8
	1912.....	63	34.2	37	20.1
	1913.....	68	25.4	39	14.6
	1914.....	62	50.0	41	33.1

(3) STATISTICS OF STRIKES AND LOCKOUTS

Comparatively few strikes and lockouts occurred in New York State during the year ended September 30, 1914. The number recorded by the Bureau of Mediation and Arbitration was the lowest in the last ten years; fewer workmen were involved and less time lost than in any other year since 1909. The reason for the small number of strikes was undoubtedly the business depression, which caused employers to curtail their manufacturing, building and other operations.

The number of disputes was 124, in which 61,428 employees took active part and 7,610 other workers were deprived of employment during the existence of strike conditions. The loss of working time for the direct participants was 396,789 days and for the others, 489,329 days, making an aggregate loss of 1,426,118 working days.

STRIKES AND LOCKOUTS IN NEW YORK STATE, 1902-1914

	Disputes	EMPLOYEES INVOLVED			WORKING DAYS LOST		
		Directly	Indirectly	Total	Directly	Indirectly	Total
1902.....	138	34,281	3,676	39,957	497,204	70,511	567,715
1903.....	202	100,133	18,258	118,391	3,473,091	685,653	4,158,744
1904.....	124	57,308	51,225	108,533	1,840,554	1,658,907	3,499,461
1905.....	154	52,564	22,053	74,617	922,775	355,221	1,277,996
1906.....	245	56,454	7,252	63,706	1,568,245	100,036	1,668,281
1907.....	282	77,931	13,286	91,217	1,482,923	241,337	1,724,260
1908.....	160	20,090	3,146	23,236	318,928	77,797	396,725
1909.....	176	52,599	14,579	67,178	771,790	289,304	1,061,094
1910.....	250	190,603	16,319	206,922	5,482,581	300,813	5,783,394
1911.....	215	84,119	10,029	94,148	2,101,188	258,904	2,360,092
1912.....	184	57,361	34,956	92,317	1,343,408	255,859	1,599,267
1913.....	268	286,180	18,121	304,301	7,520,335	220,912	7,741,247
1914.....	124	61,428	7,610	69,038	936,789	489,329	1,426,118

This table gives some general statistics of strikes and lockouts in the State for each year since the organization of the Bureau of Mediation and Arbitration as a part of the Department of Labor.

Number of Disputes

Exactly the same number of disputes was recorded by the Bureau in 1914 as in 1904. From 1905 to 1907 the number increased gradually to 282, which is the largest number reported in any year. The following year there was a remarkable decrease in number and extent of disputes, due to the business depression of that time. Then as industrial conditions improved strikes became more numerous. In 1910, 250 were reported, then smaller numbers for the next two years, and again in 1913 the high mark of 268 was reached, with the enormous loss of over 7,000,000 days in working time. The year 1914 witnessed another decrease in both number and magnitude. The total number of disputes (124) was less than half the record of 1913, while the loss of time was less than one-fifth.

INDUSTRY	NUMBER OF DISPUTES						
	1908	1909	1910	1911	1912	1913	1914
1-a. Agriculture.....						2	....
1. Stone, clay, glass products.....	4	11	13	11	10	12	2
2. Metals, machines, conveyances.....	10	22	46	27	24	35	19
3. Wood manufactures.....	7	5	6	10	4	9	2
4. Leather and rubber goods.....	3	6	12	6	7	11	11
5. Chemicals, oils, paints, etc.....	1	....	....	2	2	1	....
6. Paper and pulp.....	3	2	5	1	3	5	....
7. Printing and paper goods.....	7	....	3	10	7	5	2
8. Textiles.....	7	6	13	13	15	28	5
9. Clothing, millinery, laundry.....	22	36	27	19	27	22	16
10. Food, liquors, tobacco.....	5	13	15	14	5	6	7
11. Water, light, power.....	....	....	1	....	2	5	....
12. Building industry.....	64	56	79	78	50	82	39
13. Transportation, communication.....	22	19	27	20	22	34	17
14. Trade.....	1	....	2	2	....	2	2
15. Hotels, restaurants, etc.....	1	....	....	....	1	3	....
16. Professions.....	2	....	1	1	3	5	2
17. Public employment.....	1	....	....	1	2	2	....
Total.....	160	176	250	215	184	268	124

The above table shows the number of disputes in each industry in the years 1908 to 1914 inclusive. Fewer strikes occurred in 1914, in nearly every industry group, than in 1913.

Employees Affected

Less than one-fourth as many working men and women were concerned in labor disputes in 1914 as in the preceding year. The total number of strikers and those thrown out of work was 69,038, compared with 304,301 in 1913. The table shows the numbers affected in the various industries:

INDUSTRY	EMPLOYEES INVOLVED DIRECTLY OR INDIRECTLY					
	1908	1909	1910	1911	1912	1913 1914
1-a. Agriculture.....						71
1. Stone, clay, glass products.	412	3,996	3,056	3,078	2,632	1,784 385
2. Metals, machines, conveyances.....	668	4,656	11,584	20,126	6,190	11,477 20,048
3. Wood manufactures.....	353	353	1,122	2,255	4,596	1,618 1,110
4. Leather and rubber goods...	81	1,102	2,204	6,949	10,090	2,210 9,761
5. Chemicals, oils, paints, etc.	20			340	75	85
6. Paper and pulp.....	2,654	269	2,431	360	622	539
7. Printing and paper goods...	1,371		390	3,382	3,028	238 181
8. Textiles.....	368	248	3,305	1,466	5,153	13,357 5,565
9. Clothing, millinery, etc....	7,158	44,515	130,450	25,505	6,790	212,513 10,845
10. Food, liquors, tobacco....	325	3,105	6,325	4,601	742	1,108 1,125
11. Water, light, power.....			20		59	1,864
12. Building industry.....	3,887	6,489	41,014	13,544	35,998	25,735 14,045
13. Transportation, communication.....	5,588	2,445	4,470	12,383	9,107	6,391 7,291
14. Trade.....	135		435	57		1,527 160
15. Hotels, restaurants, etc....	20				6,500	8,290
16. Professions.....	46		136	60	699	15,470 522
17. Public employment.....	150			42	36	24
Total.....	23,236	67,178	206,922	94,148	92,317	304,301 69,038

The largest number of employees affected in any industry was 20,048, in the manufacture of metals, machines, conveyances, etc. The building industry had the second largest number affected, which was 14,045. There were decreases in all but four of the industry groups. The most striking decrease was in the clothing industry. In 1913, there were 212,513 workers involved in clothing trades disputes, about twenty times as many as in 1914 when the number was only 10,845.

Relative Number Involved

Not many large disputes occurred in 1914. There were only 11 which involved more than 1,000 employees, whereas in 1913 there were 29. Twenty-one strikes involved between 200 and 500 workers. Sixty-one per cent. of the disputes involved less than 100 persons per dispute. The relative size of disputes in the last three years is shown in the following table:

EMPLOYEES DIRECTLY INVOLVED	DISPUTES					
	1914		1913		1912	
	Number	Per cent	Number	Per cent	Number	Per cent
10-19.....	16	12.9	32	12.0	28	15.2
20-49.....	33	26.6	82	30.6	62	33.7
50-99.....	27	21.8	44	16.4	31	16.9
100-199.....	9	7.3	38	14.2	22	12.0
200-499.....	21	16.9	36	13.4	13	7.1
500-999.....	7	5.6	7	2.6	14	7.6
1000+.....	11	8.9	29	10.8	14	7.6
Total.....	124	100.0	268	100.0	194	100.0

Duration of Disputes

One dispute lasted 147 days or 21½ weeks. This was the strike of carpet workers in Amsterdam. The glove cutters' strike in Gloversville lasted 126 days or 21 weeks. These were the longest disputes of the year. One other dispute lasted over 15 weeks and 6 lasted over 10 weeks. But the greater number of disputes were of short duration, 42 of them lasting less than one week. One-third of all the workmen concerned were involved in these strikes of shortest duration, some of them losing only half a day.

DURATION	Number of disputes	Employees directly concerned	Total working days lost by those directly concerned
Under 1 week.....	42	20,474	60,439
1 week and under 2 weeks.....	21	1,733	12,072
2 weeks and under 4 weeks.....	28	25,995	316,595
4 weeks and under 6 weeks.....	15	4,966	102,068
6 weeks and under 8 weeks.....	5	1,020	31,410
8 weeks and under 10 weeks.....	4	752	28,100
10 weeks and under 15 weeks.....	6	4,953	205,525
15 weeks or over.....	3	1,535	180,580
Total.....	124	61,428	936,789

Aggregate Working Days Lost in Disputes

The aggregate loss in working days, which takes into consideration both the duration and number of workers affected in disputes, is given in the following table:

AGGREGATE WORKING DAYS LOST IN DISPUTES							
Industry	1908	1909	1910	1911	1912	1913	1914
1-a Agriculture.....						191	
1-b Fisheries.....							
1. Stone, clay, glass products...	6,956	31,481	27,463	30,381	66,350	45,606	1,070
2. Metals, machines, conveyances.....	7,821	81,953	165,428	1,048,577	167,445	203,930	203,539
3. Wood manufactures.....	7,129	11,065	10,745	73,378	85,538	39,970	83,460
4. Leather and rubber goods...	326	80,690	94,947	216,349	626,095	153,918	650,862
5. Chemicals, oils, paints.....	20			86	87	1,700	
6. Paper and pulp.....	155,626	3,138	143,040	30,420	1,803	17,596	
7. Printing and paper goods.....	12,815		6,367	51,929	72,710	4,654	2,655
8. Textiles.....	6,734	2,302	155,070	16,537	62,624	420,742	105,497
9. Clothing, millinery, laundering.....	108,534	651,144	4,260,391	338,795	96,798	5,992,998	154,700
10. Food, liquors, tobacco.....	10,464	60,713	172,938	45,153	2,207	31,242	26,174
11. Water, light, power.....			40		333	40,044	
12. Building industry.....	31,998	76,537	655,700	384,032	215,197	313,270	143,346
13. Transportation and communication.....	42,993	62,071	78,888	121,546	75,656	53,866	36,604
14. Trade.....	4,895		12,115	1,814		30,726	1,955
15. Hotels, restaurants, etc.....	10				117,000	127,830	
16. Professions (theaters).....	414		272	300	9,364	262,940	16,256
17. Public employment.....				21	60	24	
Total.....	396,725	1,061,094	5,783,394	2,360,092	1,599,267	7,741,247	1,426,118

The leather and rubber industry produced nearly half the total loss in working time due to labor disputes in 1914. This group was much more prominent than in 1913 or any of the preceding years except 1912. One dispute alone in this industry produced 39 per cent of the total loss for all disputes of the year. The metals and machinery industry was second in amount of lost time. The number of days lost, 203,539, was practically the same as in 1913. The clothing industry ranks third in importance, with a loss of 154,700 days as compared with 5,992,998 in 1913. The building industry was fourth, the lost time being 143,346 working days; and 105,497 days were lost in the textile trades. Seven other groups of industry were affected to a less extent by industrial disputes, while seven industries usually more or less affected were entirely free from strikes or lockouts.

Principal Disputes

LOCALITY AND TRADE AFFECTED BY DISPUTES	Em- ployees directly con- cerned	Duration in days	Aggregate days lost	Percentage of time lost in principal disputes to total loss in all disputes of the industry	Cause or object	Result
METALS, MACHINES AND CON- VENIENCES						
Depew, molders and others...	1,328	85	58,432	.....	Trade-unionism....	Unsuccessful
New York City, iron workers...	4,000	28	80,000	.....	Trade unionism....	Successful
Schenectady, electrical appa- ratus workers.....	13,500	3½	47,250	.....	Trade unionism....	Partly successful
Total (3 disputes).....	18,828	.....	185,682	91.2	.....	.....
WOOD MANUFACTURES						
New York City, umbrella handle makers.....	900	83	73,800	88.4	Reduction of hours.	Partly successful
LEATHER AND RUBBER GOODS						
Gloversville and Johnstown, glove cutters.....	1,200	126	556,650	.....	Increase of wages...	Unsuccessful
New York City, fur workers..	600	76	45,600	.....	Increase of wages...	Partly successful
New York City, fur workers..	3,000	12	36,000	.....	Trade unionism....	Successful
Total (3 disputes).....	4,800	.....	638,250	98.1	.....	.....
TEXTILES						
Amsterdam, carpet workers..	280	147	92,020	87.2	Trade unionism....	Unsuccessful
CLOTHING, MILLINERY, LAUN- DRY, ETC.						
New York City, children's dress makers.....	1,350	12	16,200	.....	Increase of wages...	Successful
New York City, tailors.....	4,600	12	55,200	.....	Trade unionism....	Successful
New York City, tailors.....	4,000	16	64,000	.....	Trade unionism....	Partly successful
Total (3 disputes).....	9,950	.....	135,400	88.3	.....	.....
BUILDING INDUSTRY						
Buffalo, painters.....	200	50	10,000	.....	Increase of wages...	Unsuccessful
New York City, painters.....	9,500	12	95,000	.....	Increase of wages...	Partly successful
Troy, carpenters.....	530	37	11,540	.....	Increase of wages...	Partly successful
Total (3 disputes).....	10,230	.....	116,540	81.3	.....	.....
TRANSPORTATION AND COM- MUNICATION						
D. & H. Railroad, engineers, firemen, etc.....	3,155	1	3,155	.....	Employment of par- ticular persons...	Successful
New York City, boatmen....	2,000	74	20,000	.....	Increase of wages...	Partly successful
Total (2 disputes).....	5,155	.....	23,155	63.3	.....	.....
PROFESSIONS						
New York City, barbers.....	500	52	15,200	98.5	Increase of wages...	Successful
Grand Total (17 principal dis- putes and all industries)...	50,623	.....	1,280,047	89.8	.....	.....

This table presents all the strikes of the year which caused as much as 10,000 day's loss in working time or which involved as many as 1,000 employees, arranged according to industries. The biggest dispute from the standpoint of lost time was the strike of glove cutters in Gloversville and Johnstown, which involved 1,200 employees directly and 3,900 indirectly, lasting 126 days and producing an aggregate loss of 556,650 working days. Two other important disputes, of fur workers in New York City, occurred in the same industry. The total time lost in these three disputes was 98 per cent of the total in all disputes of the leather and rubber goods industry.

The second largest dispute in the list was that of New York City painters, who lost 95,000 days. There were only two other disputes in the building industry which caused losses of as many as 10,000 days. Third in importance was the strike of carpet workers in Amsterdam. The loss of 92,020 days in this strike was caused not so much by the large number of workmen concerned as by its long duration of 147 days. This was the longest dispute of the year. Three disputes in the metal industry, one in the wood manufacturing industry, three in the clothing trades, two in the transportation and one in the professional group are also included in this list of 17 principal disputes, their total loss amounting to 1,280,047 days, or just about 90 per cent of the aggregate time lost in all disputes of the year.

Eight of the principal disputes were caused by efforts to secure wage advances, seven by trade union questions, one by a demand for shorter hours and one by a dispute concerning employment of particular persons. Six of them were successful for the strikers, seven were partly successful and four were unsuccessful.

Localities Chiefly Affected

Fifty-one strikes and lockouts occurred in New York City during the year, in which 35,567 persons were directly concerned and a total of 589,504 working days were lost. Six other cities and one village were affected by labor disturbances to the extent of 10,000 days or more, as follows:

	Dis- putes	EMPLOYERS AFFECTED		WORKING DAYS LOST BY THOSE —		
		Directly	Indi- rectly	Directly concerned	Indi- rectly affected	Total
New York State.....	124	61,428	7,610	936,789	489,329	1,426,118
New York City.....	51	35,567	101	587,248	2,256	589,504
Gloversville and Johnstown....	1	1,200	3,900	135,450	421,200	556,650
Amsterdam.....	1	260	1,828	37,180	54,840	92,020
Depew.....	1	1,328	.....	58,432	.....	58,432
Schenectady.....	3	14,046	20	49,526	90	49,606
Buffalo.....	7	606	219	15,738	3,834	19,572
Troy.....	5	658	365	12,615	2,362	14,977
Utica.....	2	995	50	9,935	650	10,535

Nearly as much working time was lost through the one large dispute in Gloversville and Johnstown as through the 51 disputes in New York City. Amsterdam, Schenectady and Troy were also among the localities chiefly affected. Thus the central eastern section of the State bore the brunt of half the labor disturbance of the year, as measured by working time lost. Other localities affected by important disputes were Depew, Buffalo and Utica.

Causes of Disputes

The principal causes or objects of the disputes begun in 1914 were trade unionism, increase of wages, employment of particular persons, reduction of hours, reduction of wages and working arrangements.

CAUSE OR OBJECT	Number of disputes	Employees directly involved	Working days lost by those directly concerned
Increase of wages.....	45	20,165	390,955
Reduction of wages.....	6	644	17,249
Reduction of hours.....	5	1,489	84,213
Longer hours.....	1	100	500
Trade unionism.....	47	33,684	412,423
Employment of particular persons.....	12	4,455	27,895
Working arrangements.....	4	542	1,660
Sympathetic.....	1	212	1,524
Miscellaneous.....	3	137	370
Total.....	124	61,428	936,789

Forty-five disputes, a little more than one-third of the total number, were caused by demands for increase of wages. There were 20,165 workmen directly involved in these wage disputes, while 644 workmen struck to resist wage reductions, which caused six disputes. The employment or discharge of particular persons produced 12 strikes, 4,455 employees being directly concerned. Disputes caused by the subject of working hours numbered six, five of them for the purpose of securing shorter hours and one in opposition to longer hours. Dissatisfaction concerning working arrangements occasioned four disputes and there was one sympathetic strike. Three small disputes were classed as miscellaneous, the subjects of dispute being other than the usual matters.

The most important cause, however, was trade unionism. The number of disputes in which trade unionism figured as the principal issue was 47, the number of employees directly concerned was 33,684, and the time lost, 412,423 working days. These disputes are classified below according to the specific subject involved in each:

	Number Employees of directly disputes concerned	
Recognition of union.....	18	8,043
Closed shop.....	12	5,807
Discrimination against union members.....	11	15,582
Disputes between rival unions.....	3	165
Against use of non-union material.....	2	87
Lockout to enforce change in contract.....	1	4,000
Total.....	47	33,684

Eighteen strikes were instituted to secure recognition of the union, twelve for closed shop conditions, eleven against alleged discrimination in discharge of employees who were union members; three were disputes between rival unions for jurisdiction over certain work, two were protests against the use of material made in non-union shops and one was a lockout to enforce a change in the form of contract.

Results of Disputes

Employers won 48 of the 124 disputes of the year. Thirty-eight were won by the workmen and the same number were compromised. Among the strikes for wage increases, the larger number (nearly half) were compromised, while the employers and

workmen were almost equally successful in the remainder. Strikers and employers won exactly the same number, 19 apiece, of the trade-union disputes and only 9 were compromised. The employers won 9 of the 12 strikes concerning employment of particular persons.

	NUMBER OF DISPUTES				EMPLOYEES DIRECTLY CONCERNED IN DISPUTES —			
	Won by em- ploy- ers	Won by work- ers	Com- promised	Total	Won by em- ployers	Won by workers	Com- promised	Total
Increas of wages.....	11	12	22	45	2,120	2,778	15,267	20,165
Reduction of wages.....	2	3	1	6	200	237	207	644
Reduction of hours.....	2	....	3	5	490	....	999	1,489
Longer hours.....	1	....	....	1	100	....	....	100
Trade unionism.....	19	19	9	47	3,266	12,346	18,072	23,684
Employment of particular persons	9	1	2	12	1,208	3, 55	92	4,455
Working arrangements.....	2	1	1	4	72	400	70	542
Sympathetic.....	....	....	....	1	....	212	....	212
Miscellaneous.....	2	1	....	3	70	67	....	137
Total.....	48	38	38	124	7,526	19,195	34,707	61,428

Considering results of disputes in relation to number of workers directly concerned, it will be observed that most of the larger disputes were either compromised or won by the workers. The wage advances demanded were won by 2,778 strikers and part of their demands won by 15,267, whereas only 2,120 who struck for increases failed to gain any part of their demands. Of those involved in trade-union disputes, 18,072 were partially successful, 12,346 were entirely successful and only 3,266 were entirely unsuccessful. In the less important causes of disputes, the results were similar, so it is evident that 88 per cent. of all employees engaged in strikes or lockouts were at least partially successful, even in a year when business conditions were far from favorable.

Mode of Settlement

The effectiveness of various methods for settlement of disputes is indicated in the following table:

MODES OF SETTLEMENT	Number of disputes	Employees affected (directly or indirectly)
Direct negotiations of the parties or their representatives.....	51	30,828
Return to work on employers' terms.....	18	9,311
Displacement of strikers by new employees.....	19	2,180
Mediation by State Bureau, trade board or other party.....	30	25,655
Arbitration by trade board.....	1	170
Arbitration by individuals.....	4	857
Other methods.....	1	37
Total.....	124	69,038

The commonest and most generally successful method for settlement of strikes is direct negotiations between employers and strikers or their representatives. The representatives of the employers are usually the president or general manager of the company involved, the superintendent of the factory or contractor in charge of building work. Representatives of strikers are the strike leader or strike committee if they are unorganized workmen; or if they are organized, the union committee, the business agent or other officers of the local union or an officer of their central or international union. Fifty-one disputes were settled by such negotiations, resulting in return to work of 30,828 employees.

Mediation by representatives of the State Bureau of Mediation and Arbitration or by other persons not directly interested resulted in settlement of 30 disputes in which 25,655 workmen were affected. The work of mediation and conciliation by the Bureau has been described in the first part of this report. Five strikes involving 1,027 employees were settled by arbitration. The 18 disputes terminated by return of the strikers to work on employers' terms and the 19 terminated by displacement of strikers by new employees include most of those in which the workmen were defeated in their efforts to improve conditions of labor by means of the strike.

(4) THE STRIKE OF GLOVE CUTTERS IN FULTON COUNTY

PREPARED BY BUREAU OF STATISTICS AND INFORMATION

The history of Fulton county, New York, centres about the industry for which its principal centre of population was named — the manufacture of gloves. In both Gloversville and Johnstown the manufacture of gloves is not only the most important industry but it is almost the only manufacturing industry open to their inhabitants. This has been true for generations. Beginning as a domestic industry which utilized the skins secured by trade from the Indians, the manufacture of gloves gradually became a factory industry although its nature is such that the domestic beginnings have not been entirely eliminated. Previous to 1890 all of the finer grades of gloves used in this country were imported because the American manufacturers could not compete with the European manufacturers in a free market. The McKinley tariff of 1890 gave the former a sufficient handicap to encourage them to begin the manufacture of fine gloves here. A piece-work scale of wages for cutting these finer grades of gloves was established which, with minor exceptions, is the scale against which the glove cutters struck in August of last year.

This wage scale was based on the handicap granted the American manufacturers by the McKinley tariff. Anticipating that the succeeding Wilson tariff would reduce this handicap, the employers made a general reduction of wage rates in 1893, amounting to approximately 10 per cent. The glove cutters accepted the reduction, together with the explanation given, but soon after organized a union to better safeguard their individual interests through collective activity.

In the presidential campaign of 1896 these workmen were led to believe that the success of the Republican party would mean a return of the McKinley tariff rates on the importation of gloves and a corresponding increase in wage rates to American glove cutters. True to the expectations of the manufacturers, the Dingley tariff, made possible by the Republican victory of 1896, placed an almost prohibitive duty upon the importation of the kinds of gloves manufactured in Fulton county. But contrary to the expectations of the glove cutters, wage rates were increased only

after an eleven weeks' strike. The increase amounted to approximately 11 per cent.; or, in other words, it merely restored the scale of wage rates established in 1890.

The success of this strike gave an impetus to unionism which placed the cutters on a bargaining basis with their employers. From 1897 to 1902, inclusive, annual joint conferences were held and a trade agreement for the following year was drawn up. Closed shop was never formally granted but the union was able to control the supply of glove cutters through its apprenticeship regulations.

The cutters were better organized at this time than their employers were. There had existed from time to time various loose associations of glove manufacturers, but as yet the community of interest had not become strong enough to bind them together into a permanent organization. In 1902 the present Glove Manufacturers' Association of the United States was organized for the purpose of becoming the aggressor, if necessary, to safeguard the interests of its members.

About the time of the annual wage conference in 1903 the cutters were asked to sign individual contracts which would insure the establishment and maintenance of open shop in the industry. The union opposed these contracts and a lockout was declared against its members. The lockout lasted from December 21, 1903, until June 28, 1904. By the latter date the cutters admitted their defeat and returned to work as unorganized wage earners.

Since that time the employers' association has remained intact and has fixed the wages for the entire industry. At its annual meeting the rates for the following year are voted upon. Manufacturers outside of the association accept this scale so that the association scale is uniform throughout the glove industry in Fulton county.

Except for minor adjustments and equalizations of rates, there has been no increase in the rates paid to glove cutters during this time, so that the rates paid for cutting gloves today are generally the same as those paid in 1890, twenty-five years ago. It is stated, however, by the employers, that whereas the cutters formerly worked only eight or nine months a year they can now work forty-six to fifty weeks a year; and that while piece rates have not increased, the yearly income of the cutters has increased some-

what. As a partial offset to such increase the cutters claim that their work is more exacting now than formerly and that they cannot earn as much in a given time now as they formerly earned during the same time.

Meantime all agree that the cost of living has increased very materially during the past twenty-five years. Since the disruption of their union in 1904 the cutters have relied upon requests for wage increases. During the last five years especially, formal requests for more wages have been made each year. And in each case such requests have been met by a statement from officials of the Manufacturers' Association to the effect that the time for such a request was inopportune.

While it is true that the union did not recover from its defeat of 1903-04, a remnant of this organization, including perhaps fifty members, has existed for some years and has acted as the mouthpiece of the glove cutters in their requests for more wages. Finding such requests ineffective, the union officials agitated for a demand for a wage increase, to be enforced by a general strike if necessary. With the outbreak of the European war and the concurrent circulation of rumors that the glove factories of the warring nations had ceased operations, it was decided that the time was ripe for making such a demand upon the American manufacturers who, it was expected, would profit greatly by the stagnation of business in Europe. At the same time the enlistment of the European glove cutters in the armies would prevent the importation of strike breakers in case the manufacturers forced a strike by refusing to grant the increase demanded.

At a meeting of this small union on August 15, 1914, a mass meeting of all cutters willing to make a demand for a wage increase was arranged. The readiness with which this appeal met response is indicated by the attendance of nearly one thousand cutters at the meeting held August 17th. A demand for an increase of \$.25 per dozen for cutting men's and boys' gloves and \$.20 per dozen for cutting women's gloves was formulated and presented to the officials of the Glove Manufacturers' Association with a threat that if such demand was not granted within forty-eight hours a general strike of all cutters would be called. The Glove Manufacturers' Association met and voted to ignore the demand of their employees.

Anticipating a reply to their demand the cutters held a second mass meeting on the morning of August 20th. When no reply was forthcoming a request for a conference with the Glove Manufacturers' Association superseded the motion to call a strike immediately. Such a request was made to the officials of the association and twenty-four hours' time was given to make reply. As before, the communication was signed, "Executive Committee, Glove Workers' Union."

While awaiting developments, about seven hundred cutters remained away from their benches. This indicated to the employers that a sufficient number of their cutters were seriously concerned to warrant an attempt at conciliation. The president of the association responded to the request sent him on August 20th and, while indicating that the Glove Manufacturers' Association was unwilling to deal with the Glove Workers' Union, he expressed his willingness to meet a committee of cutters chosen at a mass meeting. A committee of five non-union cutters was chosen and conferred with the officials of the association. The only concession offered by the employers was that as soon as business conditions warranted an increase in wages, such increase would be considered by the association.

When serious trouble with the cutters became apparent, most of the manufacturers who were not members of the Glove Manufacturers' Association were organized into a temporary, co-operating association which agreed to abide by the decision of the permanent organization in the management of the strike. With a few exceptions all manufacturers acted in unison throughout the entire period of the strike.

The strike was officially declared August 25th. Immediately all interests in Fulton county were affected by the decrease in the income and hence of the purchasing power of the glove cutters. With the cutters idle it was only a matter of days until all glove workers also were idle. In addition, rumors soon became current that at least one of the large factories expected to move away from Fulton county rather than pay the wages demanded. In the face of these conditions the business men and clergymen of Gloversville and Johnstown tried to effect a settlement of the strike. Although many of the employers as individuals seemed

willing to compromise, as an association they were averse to granting any concessions to the strikers.

The chairman of the State Board of Mediation and Arbitration then offered his services as mediator and, after several conferences with the representatives of the Manufacturers' Association, submitted the following proposition to the strikers on September 22d:

I am assured by the authorized representatives of the associations of manufacturers that there will be no discrimination against individual former employees in regard to reinstatement, and there must be no discrimination against workmen who have remained at work or who have returned to work during the strike.

I have also been assured by them that if the cutters return to their work now in the various factories, the manufacturers will take up the question of changes in the wage rate for cutting and be ready to put such changes as can be made into operation within thirty days after work is resumed. The foregoing being predicated on the continuance of hostilities in Europe and the existence of fair financial and business conditions in this country.

I am confident that the wage changes referred to above will amount to a substantial flat increase for all kinds of table cutting and proportionally on "pull-down" cutting.

The manufacturers assured me that the increase would be at least ten cents a dozen on table cutting and ten per cent on pull-down cutting, adding one-half of a cent when a ten per cent raise would result in a price ending in a fraction of a cent.

The above proposal was submitted to a vote of the strikers and was rejected by them because of the indefiniteness of the concessions offered by the association. Efforts were renewed to induce individual manufacturers to concede the demands of the strikers and compromises on the basis of an increase of \$.15 per dozen were made with some shops. These were isolated cases, however, and caused no breaks in the ranks of the association membership.

On October 5th, at the request of the strikers, the State Board of Mediation and Arbitration began a public investigation of the causes of the strike. The two grievances which were the subject of complaints by the strikers were the failure of their employers to increase wage rates and the increasing burdens of the taxation system employed in the factories. Both, it was claimed, combined to keep down wages while the cost of living was progressively advancing so that a cutter could no longer support a family without the aid of his wife or other members of his household.

It was claimed by the strikers and admitted by the employers that there had been no general increase in wage rates since 1897 and that the scale established in 1897 was merely a restoration of the scale of 1890. It was claimed furthermore that while nominal rates had remained stationary, actual rates had decreased since the use of poorer grades of leather and the introduction of a rigid taxation system resulted in a smaller product in a given time.

Formerly a lot of skins was given to a cutter and he was expected to cut from them the maximum number of pairs of gloves which they would produce. Within recent years an estimator or taxer of skins has been added to the shop force. This man determines the number of pairs of gloves which each lot of skins should produce and each cutter, upon receiving such lot, is expected to cut the number of pairs for which the lot is taxed. The strikers claimed that in many cases skins are overtaxed and that much time is lost in matching parts of gloves from scraps of leather which can be found only by searching about the factory. Some evidence was given too that favoritism was on occasion practised by the taxer in the allotment of skins on consideration of a bonus or present from the cutter. At present, however, this is not a common practice since the employers have minimized the possibility of such favoritism by having another man than the taxer to give out the skins to the cutters.

On the other hand, the employers testified that just as any other manufacturer must make the most economical use of the materials which he uses, so must the glove manufacturer plan to secure the greatest number of pairs of gloves from the skins which he uses. Glove cutters, say the manufacturers, may be divided into four classes in considering their use of the skins allotted to them; some are efficient and conscientious; others are efficient but not conscientious; a third group are conscientious but inefficient; and a fourth group are neither efficient nor conscientious. The first group need not be taxed for they will always get the number of pairs of gloves estimated by the taxer and sometimes more. Each of the other classes must be taxed or the manufacturer will lose a part of the value of the skins.

In reply to the statements of the strikers that wage rates had not been increased since 1890, the manufacturers claimed that although piece rates have not been increased, the amount of work

has increased; that whereas cutters formerly worked only eight or nine months a year they now have work — in normal years — forty-six to fifty weeks per year; and that if the cutters would increase their daily hours their weekly wages would be materially increased.

It was not possible to obtain an exact statement of the number of hours worked per day since, the work being entirely piece work, no record of time is kept and the cutters may enter and leave the shops at will. It is undoubtedly true that a few cutters have other interests than glove cutting and do not put in full time in the shops. But these are probably a negligible part of the whole number of cutters. Most of the cutters work eight to ten or more hours per day. Sometimes they work comparatively short days through choice and sometimes through lack of work.

Because of the conflicting testimony regarding the wages actually paid to glove cutters, the Bureau of Statistics and Information made transcripts of the payrolls of fifteen representative factories for the year ending June 30, 1914, in order to obtain the fairest possible statement of the weekly wages of the strikers. The results of this investigation are recorded in the following table:

CUMULATIVE PERCENTAGE TABLE OF CLASSIFIED WEEKLY EARNINGS*

GRADES OF WEEKLY EARNINGS	Number of cutters in each grade	Per cent	Cumulative percentage
Under \$7 00.....	45†	4.07	4.07
\$7 00 to \$7 99.....	38	3.44	7.51
8 00 to 8 99.....	52	4.70	12.21
9 00 to 9 99.....	66	5.98	18.19
10 00 to 10 99.....	94	8.50	26.69
11 00 to 11 99.....	126	11.40	38.09
12 00 to 12 99.....	108	9.78	47.87
13 00 to 13 99.....	112	10.13	58.00
14 00 to 14 99.....	110	9.96	67.96
15 00 to 15 99.....	112	10.13	78.09
16 00 to 16 99.....	70	6.34	84.43
17 00 to 17 99.....	51	4.61	89.04
18.00 to 18.99.....	39	3.63	92.67
19 00 to 19 99.....	29	2.63	95.20
20 00 to 24 99.....	47	4.25	99.45
25 00 or over.....	6‡	.55	100.00

* This table includes the average weekly earnings of all glove cutters employed in fifteen factories during the year ending June 30, 1914.

† Only five of these worked steadily throughout the year.

‡ Two of these six had helpers.

This table shows that while only 18 per cent of the cutters averaged less than \$10 per week, less than 22 per cent averaged \$18 per week and less than 5 per cent averaged \$20 per week. Much testimony was given at the hearing about the *average* wage; meaning thereby the wage most often paid to the greatest number of men, without regard to the unusually slow man who necessarily received low wages or the unusually fast man who received proportionately high wages. The above table shows that such average lies in the group of cutters who receive from \$10 to \$16 per week since 60 per cent of all cutters are found in this group. Within this group the wages are fairly evenly distributed among the grades designated in the table, with about one-half of the group receiving over \$13 per week and the other half receiving less than \$13 per week.

These figures are for actual weeks worked. Since the factories are open only forty-six to fifty weeks per year, the yearly income of the cutters is somewhat less than this table indicates. For example, if a cutter's wages average \$13.50 per week for forty-eight weeks actually worked, his total yearly income is \$648. His average weekly income for each of the fifty-two weeks during which he must meet his regular living expenses is only \$12.46.

A word of caution should be said here against a common method of finding average wages. For example, in such a case as this one it is a common practice to divide the total earnings by the total number of weeks worked to obtain the average weekly wage. Such an average in the above table amounts to \$14.29 per week for actual weeks worked and \$13.20 per week on a fifty-two week basis. Because of the wide range of grades of weekly earnings and the irregular distribution of cutters within these grades such an average is obviously not as representative as that which eliminates both the unusually low paid slow workers and the unusually high paid fast workers. Hence the most representative group of cutters are those whose wages are \$10 to \$16 per week for actual time worked.

The testimony quite generally agreed that glove cutting is a skilled trade requiring three to five years apprenticeship of those who learn it. It is also true that during the past twenty-five years there has been no change in the technique of the trade so that no less skill is required of the cutter now than was required twenty-

five years ago. Indeed even more skill is required now to meet the demands of the taxers of the skins and to maintain the quality of gloves from the poorer skins which are being used.

In spite of this fact apprenticeship is almost unknown in the glove factories of Fulton county. Since the defeat of the union and the establishment of open shop in 1904 the employers have been free to secure their employees wherever they can. Because of the cost of training apprentices and the ease with which skilled workmen may be secured from Europe, apprenticeship has disappeared from the local factories. This means that the racial composition of the glove cutters has undergone a considerable change in recent years and that the change is becoming more marked each year since the American youth are no longer entering the trade. The glove cutters of Fulton county at present are divided as follows: American-born, 400; Bohemians, 25; Scandinavians, 50; French, 80; Germans, 110; English, 300; Italians, 300; Russian Jews, 500.

Upon arrival, nearly all of the immigrants are young men who have served their apprenticeship in their native country and perhaps have worked there a few years as journeymen before coming to this country. Many of them come as single men or at least without their families. For that reason it is easier to secure glove cutters than makers of gloves since the manufacturers depend upon the families of the cutters to make the gloves.

The manufacture of gloves is not a highly capitalized industry. "Ten dollars and a skin will start a factory" is a common expression among manufacturers. Many of the 158 glove factories in Fulton county are small and their proprietors are in reality either sub-contractors to the owners of the larger factories or they sell their output to some particular jobber. Even in the largest factories in the county — and this is true also of all other classes of factories — only a relatively small part of the work is performed in the factory.

The glove cutters, who constitute the aristocracy of the wage earners in the industry, number approximately eighteen hundred. Twelve thousand or more unskilled or semi-skilled employees, mostly women and girls, make the gloves and prepare them for the trade. Only a part of these unskilled and semi-skilled workers are employed in the factories. The remainder are employed

in their homes where they operate power machines to sew the gloves and where they perform other operations in the process of preparing the gloves for market.

The striking cutters testified that it is their desire to obtain a wage sufficiently large to permit them to maintain a family without having their wives and children working in the shops or doing shop work at home. In such case the grant of an increase in wages to the strikers would mean not only a greater direct financial burden upon the employers but probably would necessitate a concurrent increase in wages to the makers of gloves in order to maintain a sufficient supply of such workers. In view of the fact, already noted, that even under existing conditions cutters are more plentiful and more easily secured than makers, the manufacturers did not feel justified in assuming this increased burden of cost.

Furthermore, the manufacturers claim that their products, unlike the products of any other industry, are incapable of price increases; that custom has established the price of gloves; that since gloves are a luxury, an increase in price would result in a more than proportionate decrease in consumption; and that, in case the manufacturers of Fulton county attempted to increase the price of their products, the trade would be transferred to their European competitors since the manufacture of gloves in the United States is a tariff made industry. While it is admitted that because of local competition not all of the tariff handicap granted by the former tariffs was utilized by the American manufacturers, it is claimed that under the present tariff an increase in the price of gloves would place the American manufacturer at a disadvantage in competition with the European manufacturer. According to the testimony of the employers, the European war has not seriously affected the importation of gloves and hence has not changed the above situation.

At the same time it was stated that the cost of the materials used in the manufacture of gloves has increased progressively in recent years and that this has kept down profits to a level which would not admit of wage increases without impairing profits. According to information furnished by ten of the largest firms, the profits for 1913 averaged 12 per cent on the capital invested.

Another factor which undoubtedly plays some part in the labor situation of Fulton county is the fact that a large proportion of

the glove cutters have some equity in the houses which they occupy. It is easier to buy a house on the instalment plan, making a small initial payment and thereafter making monthly payments equal to little more than a fair rental, than it is to rent a house. For that reason, although but few of the strikers own their homes, many of them, probably upwards of 80 per cent, have a sufficient equity in their homes to cause them to hesitate to seek work elsewhere.

Hence unless the cutters wish to sacrifice both their trade and their homes they are bound to the glove factories of Fulton county. They cannot sacrifice their homes only by moving elsewhere for the trade in which they are skilled is localized in Fulton county and but few glove cutters are employed elsewhere in the United States. And they cannot sacrifice their trade only by continuing to live in their homes for there is little other employment open to them in Gloversville and Johnstown. It has never been the policy of the employers of labor in these two cities to encourage other industries to locate there.

After completing its investigation the Board of Mediation and Arbitration on October 21, 1914, formulated a set of recommendations which was immediately forwarded to the committee representing the strikers and to the officials of the Glove Manufacturers' Association. After reviewing the causes of the strike and the facts obtained in the investigation the Board said:

We do not believe the cutters should be required to wait longer for a substantial increase in their wages, and therefore recommend that a flat advance of not less than fifteen cents a dozen be made in the schedule prices for all kinds of glove cutting, effective as soon as work is resumed, such advance to continue for at least one year.

We recommend also that suitable attention be given by the manufacturers to the correction of any abuses which our investigation shows to have existed in the matter of estimating or taxing the skins, and irregularity of hours of the cutters.

The strikers expressed their willingness to accept the recommendations of the Board but the Manufacturers' Association rejected them as "contrary to a just balancing of all the evidence and facts presented" and as a "biased and unfair statement."

Disappointed at the refusal of the Glove Manufacturers' Association to accept the above recommendation the strikers renewed their determination to continue the strike and laid plans to se-

cure financial support from friends of labor throughout the country. This led the business interests of Fulton county, who by this time were feeling very keenly the effects of the strike, to again offer their services as mediators. Acting through the Business Men's Credit Association of Gloversville, they made the following suggestions as a basis for settlement of the strike:

1. Any proposition we have to offer is predicated with the understanding that the question of unionism will never come up in the discussion of a plan for the settlement of this strike.

2. To arrive at a basis, we would suggest that in order to meet an extraordinary and temporary condition an increase, say of ten per cent, be granted in the wages of the cutters, with the understanding that such increase is granted during the term of this extraordinary and temporary condition and is subject to readjustment upon the return of normal conditions.

In an open letter addressed "To the Public" the manufacturers on October 31 replied to the above suggestions as follows:

The Glove Manufacturers of Gloversville and Johnstown feel that the tender by the Business and Credit Men's Association of Gloversville, of their good offices, looking to a settlement of the present strike, is commendable.

However, the condition of business at present is such that any advance in wages cannot now be considered. It is not our intention to again set forth in detail just what these conditions are, this phase of the situation having been explained both to the Mediation Board in the testimony before it and to the public through our former statements.

Until these conditions change, the manufacturers whose names are hereto attached declare that no advance whatever will be made from the present scale of wages.

When conditions throughout the industry are such as to permit an advance, such advances will be voluntarily granted and we hereby place ourselves on record to this effect.

This communication was signed by fifty-one firms, including all of the larger firms which had not compromised with the strikers.

While the strikers repeatedly expressed their willingness to meet disinterested parties who sought to settle the strike, the Glove Manufacturers' Association did not recede from the position expressed in the above letter. Six weeks later, on December 16, the president of the association said in an open letter to the press of Fulton county:

No conference, no board of conciliation is under consideration by the Manufacturers' Association. On the contrary, there is not now such an intention, nor has there been in the past; nor from any sentiment that has been so far expressed by the members of the association, will there be any in the future that is at all contrary to or will in any way change the published announcement of some fifty firms on October 30 and 31.

Since the manufacturers were not in a conciliatory mood and since the strikers, cheered by the moral and financial support of organized labor in other industries, were unwilling to give up the fight as long as a chance of winning seemed to exist, the strike continued unabated throughout December. No increased activity was anticipated during the holiday season. But it is evident that many of the strikers expected that the Manufacturers' Association would surely change its attitude with the beginning of the new year. When no such change occurred many of the strikers were unwilling to permit their wives and children to suffer longer for lack of the necessities of life and by the middle of January it became evident that the strike would soon end. On January 19 two mass meetings of the strikers were held, the first of which voted to continue the strike while a later meeting voted to discontinue it and permit the strikers to return to work on any terms they could secure.

This vote acknowledged the complete defeat of the five months' struggle to increase the wages of glove cutters and permitted the American glove industry, which had been tied up during this time, to resume operations. The causes of the failure of the strike are: First, the general business depression which affected the glove industry and caused at least a temporary decrease in the demand for gloves; and second, the strength of the Glove Manufacturers' Association in offering a united resistance to the demands of the strikers whereas without a strong association more individual manufacturers would have preferred a compromise at least to a prolonged cessation of business. The reason why the manufacturers are bound together into a strong association is their very potent community of interests in their efforts to secure high tariff rates on the products of their industry and low rates on the raw materials which they import; and to prevent the restriction of immigration and the growth of unionism among their employees whose object would be to demand a voice in the determination of wages and the conditions of labor in the factories.

Part VI

**REPORT OF BUREAU OF INDUSTRIES AND
IMMIGRATION**

[241]

REPORT OF BUREAU OF INDUSTRIES AND IMMIGRATION

HON. JAMES M. LYNCH, *Commissioner of Labor*:

SIR.— I have the honor to submit the report of the Bureau of Industries and Immigration for the fiscal year ended September 30, 1914.

While the alien population in this State is scattered throughout various communities, the humanitarian work of the Bureau centers largely at and around the port of New York because in that city, with its huge shipping and transportation facilities and unusual traffic conditions; its immigrant hotels, lodging houses, labor exchanges, steamship ticket agencies, employment agencies, real estate schemes; and with the runners, porters, guides, hackmen, expressmen, confidence men and their following devoting their energies largely to defrauding the unwary immigrant of all his earthly possessions, the need of the unfortunate victim is greatest.

GENERAL SURVEY

To properly chart these activities would require a circle every sector of which would illustrate some defrauding device. Is it to be wondered then that many discouraged immigrants, after having been robbed and betrayed by unscrupulous persons, focus their attention upon saving a sufficient competence to return to their native lands instead of developing into American citizens? There is no doubt that these unfortunate experiences are primarily responsible for the excessive number of unnaturalized aliens in this State and country.

From the moment the prospective immigrant purchases his steamship transportation in his home town in Europe, he is subjected to a system of cunningly devised extortion that extends to all parts of the United States, in many instances ending in the extreme West when after his arrival in New York some crafty agent has sold him a strip of barren waste miles from any human habitation, with no water available and no house or other shelter; a place where he cannot live, and which in his penniless condition he cannot leave.

OVERCHARGES ON RAILROAD TICKETS

Before leaving his own country the destination of the immigrant is almost invariably settled. An immigrant arriving at Ellis Island either holds a through railway order issued by the steamship company abroad or he purchases his railway ticket on his arrival at this port. He has at any rate a destination.

In the case of the well-to-do second-class passenger, the steamship agent abroad does not explain to him when purchasing his ticket that there is no "third class" railway transportation in this country as it is understood in Europe; consequently the alien on his arrival discovers that he has purchased an order for a form of transportation covering accommodation only on an immigrant way train, leaving via Ellis Island. Not wishing to take this additional trip all second-class passengers being released on the docks, he applies to the steamship agent to exchange this prepaid order for a first-class ticket to his destination. The exchange is made upon payment of a sum of money which, when added to the original cost of the transportation orders is much in excess of the regular first-class rate, as shown by the following examples:

(1) OVERCHARGE TO CHICAGO

_____, being duly sworn, deposes and says: That I am employed on a farm at Joliet, Ill. That at Liverpool, England, I paid for passage on S. S. _____, _____ Line, and was charged £32.6. for an order for railroad ticket, third class, from New York to Chicago, Ill.

That I arrived here on S. S. _____, _____ Line.

That at the office of the _____ Line the order for said railroad ticket was exchanged for order No. _____, an order for passage on _____ R. R., and on face of said order was marked fare \$19.10. This order was in turn exchanged for first class railroad ticket No. _____, Form No. _____, on _____ R. R. from New York to Chicago.

_____ was met at the steamer by a friend from Chicago. The latter purchased a ticket on the _____ R. R. to Chicago, and paid therefor \$19.10. The former following, presented his order for exchange from third class to first class, on which the amount of fare was marked \$19.10. Instead of receiving his ticket for this amount, an excess charge of \$5.60 was demanded by the agent, and paid by him, making a total rate of \$20.60 for a ticket on the same train, and for identically the same accommodation, that his friend had just purchased for \$19.10.

In the following case the excess rate was actually paid by a special investigator attached to this Bureau:

(2) OVERCHARGE TO ROCKFORD, ILLINOIS

———, Norwegian, ——— Avenue, New York City, being duly sworn, deposes and says: That at Christiania I bought steamship ticket for passage on S. S. ———, ——— Line, and paid \$16.70 for an order for railroad ticket, third class, from New York to Rockford, Ill.

I arrived here on S. S. ———, ——— Line.

At port of entry said order for railroad ticket could be exchanged for first class railroad ticket upon payment of \$5.77, which sum I refused to pay.

On this case a Bureau investigator reported as follows:

To-day ——— arrived from Christiania on S. S. ——— and was in possession of a third class railroad fare of the said ——— Line, and wished to have the same exchanged for a first class ticket. He was approached by the ——— passenger agent, who offered to exchange his third class ticket for a first class railroad ticket on payment of \$5.77. ——— refused to pay that amount, and he was advised to go to Ellis Island.

Accompanied by ——— and ———, members of the Bureau staff, we went to the office of the ——— Line, ——— street, New York City, and exchanged the third class order, together with a 10 kronen note (\$2.50 U. S. currency), and a \$5 bill, and requested that the same be exchanged for a first class ticket on the ——— railroad. The amount of the exchange demanded and collected by the clerk was \$5.77, making an overcharge of \$1.67. *The railroad fare to Rockford, Ill., is \$20.80 and the amount paid in Christiania was \$16.70.*

(3) OVERCHARGE TO ALLEGHANY, PENNSYLVANIA

One ———, English, enroute to Alleghany, Pa., was one of the passengers of the S. S. ———, arriving at New York recently; his brother ——— of the same place paid to the ——— Line Steamship Company at Hayesborough, Alleghany, Pa., the sum of \$8.00 for a railroad ticket, third (immigrant) class from New York to Pittsburg, Pa. At the dock the order was exchanged for a ticket, and he paid the sum of \$1.80, receiving another order No. 866 for the ——— railroad company for a first class ticket upon which fare was marked \$9.00.

He objected to paying this amount, as he was aware that the cost of a first class passage to Pittsburg, Pa., was \$9.00, but he did not wish to delay, as he was in a hurry to get his train, and thereupon had to pay the said sum of \$1.80 to the agent of the ——— railroad, *making an overcharge of 80 cents.*

The foregoing citations are not isolated cases, as this system of overcharging extends to places throughout the United States. The practice appears to be in direct violation of the following provisions

of the Interstate Commerce Law, entitled the "Act to Regulate Commerce" as amended by the acts of June 29, 1906, and June 18, 1910.

No carrier, unless otherwise provided by this act, shall engage or participate in the transportation of passengers or property as defined in this act, unless the rates, fares and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this act; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares and charges, which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property except such as are specified in such tariffs.

The Commission has jurisdiction * * * to require carriers to cease and desist from unjust discrimination and unreasonable preference.

Prohibits preferential rates for transportation service performed under like circumstances and conditions.

In *compliance* with this law the rates of fare and charges are "published," but *in violation of it* "unjust discrimination" has not "ceased," nor has the Trunk Line Association, whose attention has been called to the matter, corrected the "unjust discrimination" practiced by the agents of many railroads within its jurisdiction.

It cannot be disputed that "preferential rates" are given *to all others than aliens having railroad orders prepaid in Europe* "for transportation service performed under like circumstances and conditions." The cases cited in addition to others on file prove the facts conclusively, for when a third class railway order is exchanged for a first class railway ticket and the difference in the rate of fare between third class and first class has been paid, *such ticket becomes a first class fare*. Therefore, if the sum charged for the exchange plus the original cost of the transportation order is greater than the first class rate published in accordance with law, the person who is required to pay such excess is subjected to discrimination. The overcharge is a violation of the following provision of chapter 565 of the Laws of 1890 entitled

"An Act in Relation to Railroads," constituting section 39 of chapter 39 of the general laws, known as the Railroad Law:

Penalty for excessive rate: Any railroad corporation, which shall ask or receive more than the lawful rate of fare unless such overcharge was made through inadvertence or mistake, not amounting to gross negligence, shall forfeit fifty dollars, to be recovered with the excess so received by the party paying the same; but no action can be maintained therefor, unless commenced within one year after the cause of action accrued.

Complaints and affidavits setting forth numerous violations of these statutes are on file at this office. The matter was called to the attention of the Trunk Line Association on July 11, 1914, when the writer personally remonstrated about the situation in the matter of a complaint supported by corroborative evidence, submitted to this Bureau. At that interview an order issued by the Trunk Line Association to its agents, prohibiting the collection of commissions on "exchange of third class or mixed tickets," was exhibited by the association's representative. It would appear that the issuance of this order was intended to meet technical legal obligations. In the event of complications the production of such an order might be considered as evidence that the railroad had forbidden the practice and could not therefore be held responsible. In that case the violation by the employee would appear to be an individual responsibility. However, the Trunk Line Association can plead no such ignorance, as the correspondence covering the entire subject under discussion, between that body and this Bureau, has been unsatisfactory and unproductive of corrective results or any attempt to eliminate the violations.

Remonstrance with the Trunk Line Association appears to be of no avail. The railroads are at present protected by their unenforced "order" and the only course left open to this Bureau, in order to destroy this practice of extortion, *whereby thousands of dollars are unlawfully taken from immigrants and aliens*, is to refer the case to the proper authorities for prosecution.

It is natural to assume that misrepresentation is made by the agent abroad whenever he sells a so-called "third class" railroad order to *any but a steerage passenger*; as practically no aliens arriving second class wish to extend their journey to Ellis Island

in order to board an immigrant way train, and consequently on discovering their plight, no alternative is presented other than a repetition of the experiences already cited.

MONEY EXCHANGE

Railroad ticket agents, baggage agents, hotel runners, steamship company agents, and immigrant hotels, exchange money for alien passengers on all docks, and never give the legal rate of exchange. During the past year affidavits and investigators' reports show overcharges of from 2 per cent to 25 per cent on money exchange. A certain steamship company authorizes its dock agent to use the company's funds to exchange money for the accommodation of its passengers. He never pays the prevailing rates, and it is doubtful if that company is aware that he is becoming rich on the use of their capital. This case has not yet been reported to the steamship company, as it is desirable to obtain further evidence.

BAGGAGE

All passengers both alien and citizen are overcharged on *each piece* of baggage on docks. The legal rate (within a five mile radius) for express charges, is 40 cents for each piece of baggage. Affidavits on file disclose the fact that a systematic overcharge of ten cents and upwards is made by baggage "checkers" on *every piece* for the above distance.

A special investigation of the methods of employees of the different express companies having the privilege of baggage transfer on the various trans-atlantic steamship docks, was conducted as follows: A number of cabin passengers arriving on steamers on the ———— and ———— lines, were selected quite at random and interviewed. It was found that each and every passenger, who checked baggage for transfer to the various railroad terminals or ferries, was uniformly overcharged from 10 cents up on each piece of baggage.

Whenever possible, without inconvenience to the travelers, affidavits were obtained and are on file. In every instance the distance for delivery was within a radius of five miles. Express companies who have the privilege of baggage transfer on the docks

have a special agreement with the steamship companies, whereby a concession from the legal rate on hand-baggage is supposed to be allowed within the five mile limit, but instead an overcharge on the highest rate is made.

The customary rule is, that when a steamer arrives the express company having the baggage transfer privilege assigns a number of so-called "checkers" to solicit and check baggage within and without the custom lines. Each "checker" checks the baggage and collects charges from the passenger, giving a numbered receipt, without, however, having the amount collected noted thereon. Half of this receipt or check is retained to be attached to the baggage, and an entry is then made on the tally sheet, on which he is supposed to enter the charge collected, but the amount noted on the tally sheet never shows any charge above the legal rate. This is amply substantiated by comparing the charges cited in affidavits with the figures on tally sheets as reported by checkers to their respective employers.

The above facts are corroborated by a case against a certain transfer company, tried before the commissioner of licenses, when the manager of the said company set up a defense that his tally sheet showed no overcharges, and that if any overcharge had been made, it was without the knowledge and consent of the express owner, such overcharges being retained by the "checkers." In this instance the manager claimed that he had since discharged the "checkers" against whom complaints had been lodged and investigated by the custom authorities. He made restitution of the overcharge.

The "checkers" as a rule receive no salary, but are paid 25 cents per hour, when actually employed on the docks. At this rate of compensation these men would be unable to make a living wage, inasmuch as they are unable to work more than three or four hours on the arrival of a steamer, and on not more than two steamers a day. These conditions tempt them to extort excessive charges, which no doubt often amount to a considerable income. It must appear that express owners are aware of these illegal practices, but they apparently acquiesce, as otherwise they would be unable to obtain competent help to handle baggage at the prevailing rate

of compensation. The "checkers" do not appear to be conscious that they are violating any ordinance or agreement, as this extortion has been carried on for years without interference.

An illustration of an excessive overcharge is shown in the case of a passenger for whom a certain expressman checked thirteen pieces of baggage; ten pieces of which were to be delivered from foot of ——— street, where the steamer docked to the railroad at foot of ——— street, a distance of only two blocks, for which the amount collected was \$8.50, or \$4.50 in excess of the legal rate. The other three pieces were to be delivered to an address in ——— street, which is also within the five mile limit, for which the charges were to be collected on delivery.

Another instance was the case of a passenger on the ——— Line docking at foot of ——— street. Nine trunks and two valises were checked, through a certain express company to ——— street ferry, which is within the five mile limit. The charges under the special arrangement between the express and steamship companies should have been 40 cents per trunk and 25 cents per valise, or a total of \$4.10. The checker collected \$5.35, overcharging the passenger \$1.25.

In interviewing passengers, care was taken to ascertain that the apparent overcharge was not given to the checker as a gratuity.

The men employed as checkers could not undergo a rigid character investigation. They do not work exclusively for one express company, but go from dock to dock and hire out their services, as occasion demands, with the result that the system of overcharging is about uniform without distinction as to employer.

It is proposed to request that a conference be called by the Commissioner of Licenses, in order that through his co-operation this Bureau may develop some plan by which the employment of so-called "checkers" may be regulated, and that they may be properly paid by their employers.

ILLEGAL REVENUE

Some idea of the enormous revenue realized on commissions and overcharges on tickets, baggage, telegrams, and money exchange may be obtained from the report of the landing agent at Ellis Island for the year 1914, which announces that 735,741 persons were landed at this port by transatlantic steamers during the past year. Of these, 288,592 were cabin passengers, and it may be authoritatively stated that each of these was overcharged from ten

cents upwards on every piece of baggage, from 25 cents to \$1 on telegrams, and from 2 to 25 per cent on exchange of foreign currency before leaving the docks. Of this number 167,972 were second cabin passengers, and it is from this class that the great revenue on exchange from "third class" to first class prepaid railroad orders is derived. Adding to these overcharges on baggage, telegrams, money exchange, runners' fees, cab fares and hotel charges and we are confronted by an alarming total in this form of extortion and fraud.

A total of 447,329 steerage passengers arrived at this port during the same period; many of these were forwarded by railroad direct from Ellis Island via immigrant trains, but the greater proportion entered the city through the barge office, and there the jurisdiction of the Federal government over them ended. It is this class of immigrant travelers who fall a prey to unscrupulous runners for immigrant hotels, porters, hackmen, confidence men, real estate imposters, and others before mentioned, and it is these who, even when placed directly on trains at Ellis Island by immigration officials, are thereafter exploited by news agents, lunch agents, and others.

An alien on his second trip to this country informed the writer that, although he had purchased abroad a prepaid railroad ticket "third class" through to his destination in Oregon, and had boarded the immigrant train at Ellis Island, that after leaving Chicago, an agent came through the cars and *demand*ed and *collected* an additional \$10, and he was powerless to remonstrate. This information discloses another field for investigation too remote to be within the jurisdiction of this Bureau.

REAL ESTATE SCHEMES

Millions of American dollars accumulated by thrifty immigrants are sent out of this country every year for safe keeping in foreign banks, instead of being invested in farms, for the reason that large numbers of aliens are annually defrauded and deceived by unscrupulous land and real estate agents in the manner described in

the following complaint, written in French and here literally translated.

To the Bureau of Industries and Immigration:

We, the undersigned, ask assistance in a case where the interest of a number of European immigrants is involved.

Attracted by flourishing newspaper articles that appeared in the French newspaper, ———, of which we herewith attached a copy, we were tricked into buying real estate, and are therefore compelled to ask for your assistance. You may also find this article in the ——— of June 28, 1914. We were told by the agent, who showed us illustrated circulars, that the colony was in paying prosperity, and therefore agreed to purchase the acres at \$275 each. Most of the people purchased 10 acres each. According to the plans, the place in which we bought this real estate was a city of streets, avenues, stores, etc. A city with all modern improvements. In order to encourage us to buy the land, we were promised that the company would guarantee us work at the rate of \$2.50 to \$5.00 per day for the men, and \$1.50 to \$2.00 per day for the women and children. On arriving here we found the truth.

There is not a single stone of the promised city, not even a street or a house. The ground is nothing else than a waste plain and near the river Columbia. On this ground we expected to find trees, but, however, there was no sight of any such thing. The nearest city is ———, about 30 miles from here. There is only one train per day, and no doctor. In case of accident it would take three hours before medical help could arrive. In addition, the land is infested with poisonous serpents, of which we kill a number every day. As far as the plantation is concerned, there is none, and the nearest crop we may expect to have will be in June, 1915, and not before that. All the seeds we planted dried out. The heat in this country is 105 to 115° F.

All our complaints to the company were unanswered, and we have no documents to show that we are the owners of the real estate. We have no work, and for the few days we worked we were not paid. We have no resources, as we paid to the company all the money we had, and in addition we had to pay our railroad fare to here, which cost \$150 per couple. We just learned that a second expedition of 20 families will be shipped on August 30, and we hope for the good of our countrymen that you will take steps to prevent their leaving New York.

The company in order to fool the prospective buyers that their mission was a philanthropic one, has a man wearing a ribbon of the order of "Legion d'Honneur" at the head of this scheme.

We would respectfully ask you to take up the matter with the company that we have placed in your hands a complaint against them which you will bring before the courts, in case they refuse to pay us our money before the first of August, 1914.

Kindly inform us what you have done in the matter to the following address:

_____,
_____ County, Washington.
The principal address of the company is:
_____ Land Company,
_____ Building,
_____, Minnesota, U. S. A.
Very respectfully,

(Signed):

_____,
_____,
_____,
_____,
_____,

Again under date of September 14, 1914, the following letter was received:

I regret to say that I was obliged to leave Berrian, where by the way, I was not paid. I have placed the matter in the hands of an attorney in _____, who till the present could not get anything. My personal claim amounts to \$514.25. I have written to all my friends who signed the letter that you have received, and they can tell you all the details of the subject.

Yours very truly,

(Signed):

_____,
_____, Cali.

I did not have any letters from you since September 13, in my case against the _____ company. All other (complainants?) have left here for San Francisco. Nothing else new. I beg you to inform me as to the standing of my case. Could I obtain the refund of the deposit of \$25? If I can get that sum, I would on account of the necessity waive all other claims.

Kindly let me hear from you without delay.

Very truly yours,

(Signed):

_____.

This is only one of the pathetic stories of hundreds of honest and industrious foreigners who come to the United States with their life savings, intending this country to be their place of future residence; neither is this case cited as an isolated instance, as the testimony in the Bureau files abundantly illustrates.

Investigation of the above mentioned complaint developed that this company was known as the "_____ Land Company" of _____, Minn., with a New York office at _____ Broadway, which, as our inspection proceeded, was finally abandoned. The agent in charge, who had posed as a French clergyman in order

to further deceive his victims, absconded to Mexico. Communication with the main office in Minneapolis was productive of no result; but as this was out of our jurisdiction, the case, as far as this State was concerned, was necessarily closed. We assume credit however, for having dispersed the band of swindlers in this city.

The organization of a Federal bureau as a clearing house for interstate complaints of this description would appear advisable. It might very well be considered in connection with the establishment of the proposed Federal employment bureau and could indeed be made an integral part of it, as in practically all of these swindles a promise of work is advanced as part of the consideration. Similar schemes have been discovered, investigated, prosecuted, and closed out of business by the Bureau during the past year with objective points extending from Cuba to the Pacific coast.

HOTELS

Railroad ticket and baggage agents refer alien passengers to certain immigrant hotels in order to obtain commissions; the passengers are then overcharged to meet these conditions, are misinformed as to the departure of trains and often delayed for one or two days in order to compensate the hotels for the outlay of these commissions. The following illustration will suffice to demonstrate the nature of these transactions.

A woman arrived recently second class, en route to Kansas. She had five children, the eldest ten years of age, the youngest a few months. She was released by the custom's officials on the dock at about 5 P. M. A fast train was leaving for her destination at 9 P. M. via the Erie Railroad; yet she was informed that there were no trains that night and a certain immigrant hotel was recommended to her. She was taken to this hotel by its runner, was overcharged for a cab, overcharged on each piece of baggage, charged \$8.25 for one night's lodging, and finally placed her on a train at 2:35 the following day, thus adding seven hours to the length of her journey on a slow train encumbered with five children. When the complaint in the case reached this office, the transaction had already been consummated, but the statement of the indignant passenger after learning how she had been deceived, was taken by an investigator, who boarded her train to obtain the evidence.

CONFIDENCE MEN

The following report of the Bureau's supervising investigator of docks and ferries describes the methods of confidence men in preying upon emigrants:

While on an inspection tour to-day, one Conrad Brenn accosted me outside the French Line pier, foot of West 16th street. He is one of four French and Italian confidence men and immigrant "sharks" who work in that vicinity. He informed me that he was one of the reservists whose passage had been paid by the French Consul and that he would sail on S. S. "La Touraine," leaving that afternoon for France. He inquired whether I was sailing on the same steamer, and I replied that I was, and that I had a steerage ticket. He asked me about my nationality, my previous occupation, where I came from, and further particulars about my financial status. I replied that I was a "Swiss," from the town of Zurich, that I arrived from Chicago last night and that I had a few hundred dollars which I had with me. Probably forgetting that he had told me that he was a French reservist, he now said that he was a countryman of mine, from a nearby town in Switzerland, and as I was a stranger in New York, he invited me to accompany him on a sightseeing tour on Broadway.

We walked on 16th street, and I noticed that we were followed by his three partners. On 16th street and 10th avenue we entered a saloon where incidentally we met one of his partners, whose name I do not know, but whom I will classify in this report as "No. 2." He was introduced to me as "another countryman and also a passenger on the same steamer." Several rounds of whiskey were ordered, and to show their appreciation of meeting a countryman like me, they refused to let me pay any part of the bill. When we left the saloon, and on 16th street between 7th and 8th avenues, we were accosted by another of their accomplices "Marius Frances," who informed us that he was a stranger in New York, and that he would like to know where the "American Hotel" was located. "No. 2" replied that this hotel was on 15th street and 4th avenue, and as we were going in the same direction he was requested to join us and we would direct him to the place. On our way Marius Frances, shedding tears pitifully, informed us that he had just arrived from San Francisco, where his uncle died and left him \$20,000, which money he had in his possession. He produced from his overcoat pocket a roll made up of 70 single dollars covered on the outside with a twenty dollar bill, and from the inside jacket pocket, a legal sized envelope, which he said contained \$19,000. (This package, when examined later in the police station was made up of a bundle of newspapers with two bills covered on the outside.) He stated that he was going to sail on the French Line steamer "La Touraine," the same steamer on which we had tickets. He further said that he was afraid that somebody might rob him, and begged us, as his country people, to protect him. He said that he was willing to give us \$500 each and pay the difference between our steerage tickets, for first cabin passage, providing we promised to deal honestly and take care of him.

In order to show that they were honest and reliable persons Conrad Brenn and "No. 2" each took from their pockets a handful of bills and requested

me to do the same. I replied that I had \$500 in a pocket book attached to my neck, and therefore was in no position to show it to them, whereupon, they argued and tried to induce me to go into a saloon and there undress, which I declined to do.

By this time we arrived at Fourth avenue and 15th street. Marius Frances entered the "American Hotel" requesting us to wait for him on the corner. During his absence Brenn and "No. 2" tried to induce me to show the money to "Frances" on his return, which I declined to do. Finally they proposed that if we could get the confidence of Frances we could lure him into a saloon or other place, rob him of the \$20,000 and then divide the money equally.

A few minutes later Frances returned and said that he had all the money with him and that the baggage had been sent to the steamer.

As I did not have \$500 to show to them and as there was no police officer in sight, I maneuvered to get them to 4th avenue and 14th street where I knew a traffic officer could be found on duty. On our way to 14th street "No. 2" stated that he had some business to attend to and would meet us later on the steamer. At 14th street I called for the assistance of the traffic officer, who immediately placed them under arrest on my complaint.

When searched in the station house the bogus packages of money mentioned previously were found in their possession. The first district detective division was notified and Detectives Raftis and Dalton came to the station house and took charge of the prisoners. Detective Bottie identified the two men as confidence men arrested and convicted many times before, and they were arraigned before Magistrate Freschi in the Jefferson Market on a charge of disorderly conduct preferred by me. They asked for an adjournment and they were held under \$1,000 bail, each for a hearing on November 25th.

On searching them we found on Conrad Brenn passenger tickets in the name of "Brenn Conrad," S. S. "Mexico," destination Vera Cruz, dated September 4, 1914, and Edwin Brem, S. S. "Sant' Anna" of the Fabre Line, dated July 7, 1914. It seems that these may belong to passengers defrauded by them through a similar trick. I will investigate further.

The "game" that these men were trying to play is known as the "handkerchief game." If they could have learned the amount of money in the possession of the supposed emigrant, they would then have induced him to place his money together with theirs in a handkerchief for the purpose of defrauding the pseudo heir, would then have entered a saloon or other place under the pretense of getting rid of the heir, and would have given the emigrant the handkerchief with the money to hold. The handkerchief, however, would have been changed in the meantime. They would not have returned and when he opened the handkerchief he would have found that it contained nothing but newspapers and other trash.

Two of them were sentenced to three months in the workhouse, after pleading guilty.

It may be added that convictions in similar cases are exceedingly rare, owing to the fact that the complainant has cleverly been induced to become a party to the crime, inasmuch as he himself has

entered into a conspiracy to swindle the alleged "heir" who was one of the confidence men.

GENERAL CO-OPERATION OF PUBLIC DEPARTMENTS

Through the cordial co-operation accorded by the collector of port, the surveyor of the port, the commissioner of licenses, and the police department, the activities of all of the aforementioned ticket agents, baggage agents, runners, expressmen, confidence men, etc., have been curtailed to an extent heretofore unknown.

The surveyor of the port has ruled that each applicant for an annual custom house pass is required to obtain a runner's police license before his request for an application blank is granted; upon receiving this application he is required to appear in person at this Bureau for identification and endorsement before his annual pass will be issued.

The police department has likewise required all applicants for a runner's license to obtain the approval of this Bureau and to appear in person for identification before a license will be issued by the commissioner.

The commissioner of licenses has ordered all applications for licenses for public porters, hackdrivers and expressmen to be submitted to this Bureau for approval* and identification before licenses are issued, and also that notification of revocation of all licenses be furnished for our files.

The commissioner of licenses has under consideration a new city ordinance drafted by this Bureau that will confer entire jurisdiction of licensed runners, porters and kindred regulated occupations upon his department; the provisions of this ordinance when in operation will so clearly define, and so strictly regulate the activities of these persons, that their control will be greatly simplified. The only existing ordinance regulating the activities of these persons was enacted 70 years ago and provides for transportation of baggage *only by wheelbarrow or handcart*. There are upwards of 75 public porters operating in the vicinity of the Grand Central station at the present time. Imagine the spectacle, if the law were to be technically enforced, of 75 porters with 75 wheelbarrows arrayed in front of this terminal!

* A total of 633 such licenses were approved by the Bureau in the present report year.

Therefore, under the jurisdiction of the surveyor of the port, the police department, the commissioner of licenses, and the Bureau of Industries and Immigration, all classes of persons who formerly were under the jurisdiction of but one of these departments, now find themselves under a multiple surveillance, and conditions at all docks, ferries and terminals are immeasurably improved and will continue to improve, for the reason that any infraction causing the revocation of either a license or a custom's pass will render the offender utterly useless to his employer, whether he be working for a hotel, express company or railroad. The revocation of one privilege automatically renders the possession of the others useless.

Consequently, these men, who for years have violated the law with impunity, now face upon conviction of such charge the certain loss of their means of livelihood.

BOGUS MEDICAL "INSTITUTES" IN NEW YORK

Cases on file in this office disclose the fact that certain physicians not only resort to unethical advertising methods, but also employ fraudulent schemes whereby they are enabled to extort large sums of money from unsuspecting immigrants and aliens. It is deemed advisable to give a general outline of these methods, and also a brief history of several cases on record in this Bureau, which will fully explain the system employed by these supposedly reputable physicians.

A sumptuous office is usually fitted up and an imposing trade name is adopted. Advertisements in the foreign language press, and circulars in all languages, distributed throughout the immigrant sections of the city call attention to the "wonders" that the institute has accomplished in the medical world. Moreover, the circulars are so worded as to create the impression that the institute is a charitable organization and that the fee, if any, is nominal. It announces broadly the fact that advice and consultation is "absolutely free," the only charge being for medicine, or for examination and treatment, with medicine included. The following is a partly quoted circular, typical of the one circulated by such institutes or doctors:

Dr. ———, and Dr. ———, returned after years of practice in the medical clinics, hospitals and universities where they practiced with the best known professors, specialists in Europe, viz: Vienna, Berlin, London, Rome, Budapest, etc. * * * This great specialist will give advice free to all men, women and children. Come and see, free of charge, the greatest medical office and the best and most wonderful electrical and magnetic machines for the cure of the sick and the newest invention in the world. We accept only the sick who, after a thorough examination, can be, in our opinion, cured. We immediately tell incurable patients not to spend any money in any attempt to cure themselves as it would only be a waste of money. * * * That is why we give consultation and advice free. In this manner we have established an honest reputation and an extensive practice * * *. First class professors, physicians and specialists in the city have opened this splendid office for the cure of wealthy and poor by newly invented machines never yet used anywhere else * * *. Our magnetic machines cure diseases of women without the necessity of operation, thereby saving thousands of women from the surgeon's knife * * *. Physicians having patients whom they are unable to cure, should apply to us for advice and consultation, for which no charges will be made * * *. Do not waste your time, money and health with any doctor who cannot understand your disease, but come to our celebrated professors, who will cure you * * *. Hundreds of suffering men and women are coming from every part of the State to be examined free of charge by the greatest X-Ray machine in America.

These circulars induce many unsuspecting immigrants who are ill to appear at the office for "free" consultation and advice. What happens there is most interesting and illustrates one of the greatest frauds perpetrated on ignorant humanity.

The applicant is ushered into a private office. To comply with the law a registered physician, under whose name the institute operates and who is very often only an instrument in the employ of an unregistered financial backer, in addition to two or three interpreters, all representing themselves as physicians, take the patient in hand. He is placed before a large machine of complex appearance that conveys the impression to the ignorant immigrant of being costly and almost miraculous, and is examined by the two or more interpreters, who dramatically and with apparent emotion inform the patient that he is suffering from some dreadful disease, which if longer neglected, will result in death. The patient becomes alarmed and agrees to pay any price for a cure, which is guaranteed. A large sum is at first requested as part payment, but any amount that the patient has or can obtain is accepted. It is unnecessary to state that the so-called examination and later "treat-

ment " are absolutely without merit, and that unregistered assistants are acting as physicians and "treating" the patient. No prescriptions are given, as the so-called "institute" provides all medicines and medicinal appliances.

Another method of medical advertising for the purpose of gaining the confidence of the immigrant public is as follows: A "museum" is fitted up in a prominent section of the city with an extensive display of physiological exhibits. Upon entering the lobby where the exhibits are "Open and free to all men," the visitor is approached by a person who distributes literature so worded as to make the immigrant suspect that he has the symptoms of some fatal disease, and he is thus induced to consult the "specialist" in charge of the museum, who has his office in the building. Some person in the employ of the "museum" will then attempt to engage the immigrant in conversation, and finally persuade him to believe that he is suffering from a disease requiring immediate treatment. He is then taken to an elaborately furnished office and another person, presumably a physician, interviews him. Here he is invariably informed that he is in the last stages of some serious disease.

Some "institutes" publish newspapers and books that are extensively distributed, describing the marvelous cures accomplished. These papers are distributed in public places free of charge.

It is not uncommon for these "physicians" to resort to forgery, trickery, or any other device in order to obtain the savings of their unfortunate victims. They have been known to take bank books and withdraw entire deposits on such orders. Persons convicted in various states for similar practices are now operating in New York City.

Several examples of cases on file in this Bureau will explain the methods pursued, and illustrate how healthy individuals are made to believe that they are suffering from horrible diseases and are compelled to pay out large sums of money for fictitious "medical aid" and medicines.

C. D., a Greek laborer, 25 years of age, two years in the United States received a circular in the Greek language, issued by one of the so-called "medical institutes." Feeling somewhat ill, called at said institute for "free" consultation and advice. He was examined and told that he was

suffering from a dangerous disease. He was asked to pay \$7 for the examination but only paid \$2, all the money he had, and was asked to sign an order for \$5 more on a private banker where he had \$80 on deposit. It developed that the amount of this order was left blank and subsequently it was made out for \$73, which the physician withdrew from the bank. The patient soon found out from the private banker that his bank balance was \$7, as all the other money had been withdrawn.

This Bureau succeeded in obtaining the return of the money.

Mrs. C. B., a widow of Valhalla, was also induced by a circular to call at one of these institutions. She was examined by an Italian interpreter who represented himself as the physician in charge. He told her that she was suffering from a serious disease and guaranteed a cure within six months for the sum of \$75. Mrs. C. B. paid \$30 down and during several visits thereafter paid \$80 more. After being attended at this "institute" twice a week for two months, she was informed that the disease from which she was suffering required treatment by another "institute" which specialized in similar diseases. Mrs. C. B. stated that she would not pay any further sum and they agreed to return the \$75 she had already paid the other "institute." She was informed that a check for that sum had been paid and she was taken to the other "institute." There she was informed that she would have to pay another \$75 inasmuch as the previous check was not good. She paid the money again, and after several visits, as she had derived no benefit and thereafter went to a free dispensary where she was informed that she was not suffering from any disease whatever. This Bureau succeeded in obtaining the refund of \$150.

Mrs. F. F., an Italian widow called at one of the institutes after receiving one of the circulars and was told that she was suffering from a serious mental disease, and for \$40 they would guarantee to cure her. She paid \$40 and was given some pills. She called there several times and was treated by a man who had never studied medicine or who not even registered as a physician. Not having obtained any relief, she called in a private physician who informed her that her case was diagnosed incorrectly, and that she was not suffering from any mental disease. This Bureau succeeded in obtaining the \$40.

P. U., a Polish laborer, three years in the United States, called in reply to a newspaper advertisement which he read in the foreign papers. His case was diagnosed and they guaranteed to cure him for \$75 within three months. He paid \$37.50 and agreed to pay the balance when cured. P. U. requested a written guarantee, which they promised to give him later. He was induced after several visits to pay \$10 more on account. He finally became seriously ill and was confined to his bed for fourteen days. He telephoned to the "professor" of the institute to call, which he refused to do. He then went to Bellevue Hospital, where he was told his case was diagnosed incorrectly. The Bureau succeeded in obtaining the refund of the \$40.

Cases of this description prompted the Bureau to make an investigation of the practices of these "institutes," "museums,"

and "doctors" in the city of New York. These investigations are not yet completed, but we have already succeeded in obtaining sufficient data to convince us of wholesale fraud, gross exaggeration of ailments, extortion, etc.

Two investigators disguised as immigrants called at a certain "institute" which had distributed circulars and were examined by an unregistered "physician" who charged \$2 for the examination. The investigators were told that one of them was in the last stages of consumption, and unless immediately treated, would not live longer than one month. The institution guaranteed a cure for \$50. These investigators, before going to the "institute," were examined by the department of health physicians, and after leaving the "institute," by a private physician, and were found to be in perfect health. The Bureau succeeded in having all the money collected from a large number of complainants returned to them and the proprietor has since discontinued the entire business.

One of these so-called "professors," who was not a registered physician, confessed and disclosed some valuable information in a statement to this Bureau which in part asserts, that before examination, the patient is asked to undress in an ante-room and there his clothes are searched for bank-books, money, etc., so as to enable the person examining him to judge how large a fee to demand, and also that every prospective patient, after examination, is invariably told that he is suffering from some dangerous ailment.

It is almost impossible to gather the necessary evidence for conviction against these so-called "institutes" without a reasonable financial outlay. We have, however, succeeded in every instance in securing the required evidence. The Bureau has called the attention of the Medical Society of the County of New York to some of these complaints, but this society is also handicapped, we were informed, by lack of funds.

These fraudulent "institutes" should be prosecuted, but to do this, it is necessary to obtain legal evidence, and the co-operation of the State Board of Medical Examiners is essential and desirable.

Thousands of people, especially immigrants, are daily victims of these human leeches practicing under the protection of the title "M.D." One "institute" which through our efforts was entirely disbanded had an enrollment of about 14,000 "patients."

**CONDITION, WELFARE AND INDUSTRIAL OPPORTUNITIES OF
ALIENS**

Section 153, of chapter 514 of the Laws of 1910, as amended, states that, "the Commissioner of Labor shall have the power to make full inquiry, examination and investigation into the condition, welfare and industrial opportunities of all aliens arriving and being within the State. He shall also have power to collect information with respect to the need and demand for labor by the several agricultural, industrial and other productive activities, including public works throughout the State."

This Bureau during the year 1914 made 694 inspections of labor camps, and the investigators of the Bureau made inquiry and examination into the condition and welfare of the aliens working in these different camps. During the year letters were sent to the different highway contractors, etc., reading as follows:

DEAR SIR: Under the provision of chapter 514 of the Laws of 1910, as amended, this Bureau is conducting investigations into the living conditions, the manner of housing and the conditions surrounding the employment of aliens and foreigners in the labor camps throughout the State.

In order to proceed with this investigation, this Bureau respectfully requests your reply to the following questions:

1. The location of your camp in which aliens are employed, the nearest railway stations, and post office.
2. The approximate number of alien workmen in each camp.
3. Is the work in these labor camps now in progress, or if not, when do you expect to start?
4. If the agreement for commissary and sleeping privileges has been let, kindly give the name and address of the person holding such agreement. Your early attention to this matter will be greatly appreciated.

Very truly yours,

(Signed) Chief Investigator.

The reports of the investigations were examined, and when these reports showed that certain conditions existed that should be changed letters were sent to the different contractors, boards of health and other departments, calling attention to the conditions that were repugnant to public health and welfare. Of such letters 1,120 were sent during the tour of labor camp investigation. Furthermore, 445 camp schedules were referred to the Department of Education at Albany and these schedules showed the number of aliens employed and also called attention to the necessity of establishing schools at the different labor camps. (See table, page 266.)

Section 153 of chapter 514 of the Laws of 1910, as amended, also contains the following language: "To gather information with respect to the supply of labor afforded by such aliens as shall from time to time arrive or be within the State."

The annual report of the Commissioner General of Immigration discloses that during the fiscal year ending June 30, 1914, the number of immigrant aliens admitted into New York State was 344,663, of this number there were 6,433 professional, 69,886 skilled, 179,682 miscellaneous, and 88,662 no occupations (including women and children), as follows:

Professional:			
Actors.....	644	Milliners.....	973
Architects.....	177	Miners.....	599
Clergy.....	315	Painters and glaziers.....	1,697
Editors.....	136	Pattern makers.....	12
Electricians.....	363	Photographers.....	185
Engineers (professional).....	930	Plasterers.....	87
Lawyers.....	175	Plumbers.....	252
Literary and scientific persons.....	338	Printers.....	623
Musicians.....	674	Saddlers and harness makers.....	260
Officials (government).....	185	Seamstresses.....	6,774
Sculptors and artists.....	362	Shoemakers.....	4,590
Teachers.....	1,006	Stokers.....	420
Physicians.....	234	Stonecutters.....	267
Other professional.....	804	Tailors.....	14,859
		Tanners and curriers.....	124
Total.....	6,433	Textile workers (not specified).....	66
		Tinners.....	436
		Tobacco workers.....	26
Skilled:		Upholsterers.....	126
Bakers.....	1,839	Watch and clock makers.....	384
Barbers and hairdressers.....	1,724	Weavers and spinners.....	658
Blacksmiths.....	1,520	Wheelwrights.....	78
Bookbinders.....	331	Wood workers (not specified).....	82
Brewers.....	70	Other skilled.....	1,881
Butchers.....	1,446		
Cabinet makers.....	122	Total.....	69,886
Carpenters and joiners.....	5,054		
Cigarette makers.....	21	Miscellaneous:	
Cigar makers.....	148	Agents.....	438
Cigar packers.....	333	Bankers.....	194
Clerks and accountants.....	6,961	Draymen, hackmen and teamsters.....	359
Dressmakers.....	4,684	Farm laborers.....	63,223
Engineers (locomotive, marine and stationary).....	493	Farmers.....	2,592
Furriers and fur workers.....	510	Fishermen.....	201
Gardeners.....	434	Hotel keepers.....	201
Hat and cap makers.....	598	Laborers.....	53,231
Iron and steel workers.....	402	Manufacturers.....	247
Jewelers.....	200	Merchants and dealers.....	8,646
Locksmiths.....	1,103	Servants.....	45,248
Machinists.....	644	Other miscellaneous.....	5,102
Mariners.....	2,315		
Masons.....	2,363	Total.....	179,682
Mechanics (not specified).....	823		
Metal workers (other than iron, steel and tin).....	339	No occupations, including women and children.....	88,662
Millers.....	250		

Section 153 of chapter 514 of the Laws of 1910, as amended, also states, "to investigate and determine the genuineness of any application for labor that may be received and the treatment accorded to those for whom employment shall be secured."

When the Bureau receives an application for labor, the record of the application is made and the applicant is referred to either the Federal Agricultural Bureau, the Municipal Employment Bureau, the State Employment Bureau, or other philanthropic agencies. The bureaus to which these applications are referred then make a thorough investigation of the application and treatment accorded to those for whom employment is secured, and if a complaint is afterward received to the effect that the alien has not received his wages, or has been mistreated, the matter is immediately referred to this Bureau, and investigation is made. The Bureau also co-operated with the employment or immigration bureaus conducted under the authority of the Federal government or by the government of another state, and also co-operates with public and philanthropic agents designed to aid in the distribution and employment of aliens. During the year 361 requests for work and cases under this classification were thus referred.

Section 153 of chapter 514 of the Laws of 1910, as amended, contains the following language, "and to devise and carry out such suitable methods as will tend to prevent or relieve congestion and obviate unemployment."

In compliance with this section of the law this Bureau co-operates with the different foreign consuls and also with the different employment and immigration bureaus. If the alien has worked on a farm he is sent to the Federal Agricultural Bureau, Division of Information, and if he is a mechanic he is sent to some bureau able to furnish him with a position.

LABOR CAMPS

Consideration of the subject of labor camp inspection in its relation to the regulation of housing and sanitation has heretofore been extensively considered only by the Commission of Immigration and Housing of California and the Industrial Commission of Wisconsin in addition to the work accomplished by this Bureau.

The report of the California commission for the year 1914 is

based on a total inspection of 900 camps in that state "involving the sanitation and improvement of the living conditions of 62,000 men" as against 240 camps involving 14,407 men in 1913.

The Bureau of Industries and Immigration of New York State follows this record closely with a detailed inspection in 1914, of 694 camps involving the living conditions of 57,324 men, of whom 30,697 or 53 per cent were aliens, as against the investigation in 1913 of 183 camps capable of accommodating 20,237 men, of whom 11,211 were aliens.

The conclusions deducted, therefore, by California and New York should serve as the basis for a reform of conditions that are equally deplorable wherever this mode of housing prevails.

COMPARATIVE NUMBER OF EMPLOYEES AND ALIENS ON THE 689 LABOR CAMPS INVESTIGATED

	Number of camps	Greatest number of employees	Number of aliens	Per- centage aliens
Highways.....	128	6,418	4,663	73
Mines and quarries.....	116	12,334	6,290	51
Canneries.....	181	12,896	5,718	44
Brickyards.....	119	8,551	4,135	48
Barge canal.....	28	4,639	1,690	36
Railroads.....	149	3,180	2,030	61
Fertilisers.....	4	479	174	36
Aqueducts.....	10	5,135	3,412	66
Miscellaneous (aluminum, disposal, cold storage, paper mill).....	4	3,292	2,885	72
Total.....	689	56,924	30,497	54

The industries maintaining permanent housing facilities for their employees are, canneries, mines and quarries, brickyards, aluminum works, cold storage plants, disposal works, paper and pulp mill.

Temporary camps are maintained by contractors on the Barge canal, railroads, aqueducts and all public works.

Permanent Camps

Canneries.—As a basis for sanitary requirements in all labor camps, the Industrial Code as compiled for canneries has been used for maximum recommendations.

These requirements have placed the sanitation of living quarters controlled by the canning industry wholly within the jurisdiction

of the Industrial Board, but recommendations to employers in all other industries have been exceedingly well received.

Objections to Bureau recommendations from employers, contractors and railroads have been negligible in number and taken as a whole as unworthy of note. While the general situation in labor camps is lamentable, the disposition of employers appears to indicate a desire to improve conditions.

In a special report to the Industrial Board on each individual canning factory inspected, details of existing conditions are minutely described.

Brickyards.—Brickyards maintain permanent camps where conditions are most wretched. The negro quarters are particularly insanitary. Superintendents appear to be indifferent. Shanties are so dilapidated that rain pours into the rooms in such quantities as to make cooking impossible. They are infested with vermin. The bedding is indescribably filthy. As these laborers pay for their accommodations the companies should be obliged to maintain cleanliness. A special report on brickyards discloses the following:

In a certain brickyard the bunks are in three tiers with only about two feet of space between each, so that the men cannot sit up but are obliged to crawl inside and this condition exists while there is plenty of room in the shanty to have all bunks in one tier. It was explained that originally there was a large dining table in the shanty and they were short of space. The bunks were built during this (1914) spring.

In most of the shanties a large part of the space was occupied by large coal stoves, not always in good condition. The heat was intense while the stoves were burning. It was suggested that they arrange a cooking place outside. In most cases it would not have caused any considerable expense. "They're from the South and like it hot," said one foreman. Most of the windows do not open.

There was an apparent indifference on the part of the brickyard operators as to the living conditions of the negroes and they should be compelled to put the shanties in good condition, to supply the men with clean bedding, and bunks, and insist upon them being kept clean. Should there be any contagious disease in any of the yards it would most likely become epidemic on account of the horrible condition of the living quarters of the negroes, who freely mingle with the other laborers at work, in the saloons, etc.

It is stated that the town health authorities have never given any attention to the shanties of the negroes, as they were considered only temporary dwellings.

In many yards 14 and 15 year old boys begin to work at 4 a. m. It was invariably asserted by the superintendents that from 4 till 8 they employ a

man to the "yarding," and that the 14 year old boy begins to work at 8 a. m. However, every brickyard foreman admitted that "*in the yards of his neighbors,*" the yard boys start at 4 a. m. Some of the boys were questioned, but they are instructed to deny these statements, and generally, whenever a yard was approached, a number of youngsters would run away before one could descend to the water-front. Yard superintendents where no boys under 16 years are employed at any time, stated that the section of the Labor Law is violated because it is very hard to catch the boys working between 4 and 8 a. m. The foremen considered this section unjust, as they claim that "the boy gets up anyhow at 4 a. m." A yard boy earns \$1.25 a day, but a boy over 16 wants more money and would not work for that wage.

It is also stated that "to edge up" brick the workman must walk between rows of brick in a lane only 3 or 4 inches wide, and a boy can walk there easier, having small feet, that the "edger" must stoop down to get the brick on the ground and that the taller the worker the lower he has to stoop. However, all this can be overcome and has nothing to do with the enforcement of the law as it stands and it was noticeable that while old employees are usually large, strong men, the younger ones are mostly small in stature, although they have "old looking faces." It was stated that this was due to the fact that they are obliged to begin work at 4 a. m. when they are only 12 and 14 years of age, so that they do not obtain the requisite sleep for a growing child. These facts were especially noticeable at the yards at Glasco.

In many yards brick turned out in the morning cannot be put in "hacks" for drying, being too soft, and in these cases the "hacking" of Saturday's brick is done on Sunday. It usually requires 30 men to work 3 to 5 hours, thus depriving them of one day's rest in seven. It was stated that in every yard work is performed on Sunday, either to accelerate shipping or to be ahead with the work. Some kilns require six days to burn the brick, others, however, require seven and when on account of any rush, kilns are started on days other than Monday, men are required to work around the kilns on Sunday.

Not one brickyard out of the 17 inspected, whether the property of a corporation or not, paid wages weekly, some paid regularly every two weeks. The laborers, however, are satisfied with payments every two weeks. All corporations are now receiving orders from the Labor Department to pay wages weekly. In one yard employing 90 men, 40 were aliens and about 10 colored.

Mines, Quarries and Brickyards.—All these maintain largely permanent housing facilities, and therefore should be obliged to adopt a definite standard of construction and maintenance.

The permanent camp maintained by the Aluminum Company of America, at Massena, N. Y., may be commended for its model housing facilities. Investigation of these premises discloses:

For the family men two story houses are furnished and for the single foreigners one story shanties with separate rooms, accommodating from two to three men in each room. Iron beds are furnished by the company and no

bedding belonging to the laborers is allowed in the rooms. A medical inspector visits the houses each day to inspect the sanitary conditions of the shanties occupied by the single men.

Model camps may be found on the New York aqueduct system at Ashokan, Yonkers and Staten Island, and conditions at Mineville, N. Y., demonstrate the feasibility of modern sanitary housing facilities.

Permanent camps are also maintained by railroads, and those of aqueduct camps may, in some cases, be classified as permanent, as they are maintained in the same location for periods of five years and upwards, and are under the jurisdiction of the sanitary engineers of the board of water supply.

Temporary Camps

Suggestions are frequently requested for sanitation and construction of camps, and in the case of railroads our correspondence discloses an effort to effect immediate revision of conditions.

At the end of the labor camp season the railroad situation was taken up with representatives of the various companies with the result that they have begun to thoroughly overhaul all box cars to be used next season and have offered, in the case of two of the most important systems in the State, to have an investigator from this Bureau accompany the engineers in charge, on a tour of inspection at the beginning of the camp season.

Communications from this office requesting an expression of the intention of railroads to endeavor to improve the living conditions of their alien employees during the coming year, have elicited responses of which the following will serve to illustrate the disposition evinced by practically every railroad in the State, and which assures an unprecedented improvement over former conditions for next season. The employer in every instance appears to realize the economic value of the health of the laborer just as keenly as the State realizes the economic burden of the public charge.

The following is from a letter of Principal Assistant Engineer A. J. Neafie of the Delaware, Lackawanna & Western Railroad:

As a large percentage of our camps have been discontinued for the winter, except our camps on the Cut Off in the state of Pennsylvania, and as we have very few men at this time of the year, there would be very little progress made from an investigating standpoint covering camps over our system at

present. However, at this time of the year we arrange to make preparation for our labor camps for next year's installation. I would like very much in early spring, when these camps are installed and everything is in shape, to have one of your representatives accompany me and inspect the labor camps over our system in New York State, and go into the question covering the condition of the camp when located, the method we adopt in preparing these camps, the condition of the camps at the time the men are placed, the arrangement that we make with the men to properly maintain them, taking a record of each of these camps as to the conditions, so as to eliminate any question as to complaint during the summer. I think this would eliminate a large percentage of the complaints covering these camps.

The thing to do is to get this matter lined up for next season and have the camps carefully inspected as they are installed, and have your inspector who accompanied me over the system make a report on each of these camps or houses.

In an interview with Mr. A. T. Hardin, Vice-President of the New York Central & Hudson River Railroad, on July 20, 1914, the following facts were developed:

It was decided to abolish the box car camp at Harmon. The New York Central is erecting at different places, where camps are maintained, concrete one-story houses for this purpose, but the intention is to discourage the permanent camp, owing to its demoralizing effects upon the laborers, except where it is necessarily distant from any housing facilities in a town.

The New York Central Railroad depends, at present, entirely on Italians for construction work and division foremen, and is greatly handicapped by their illiteracy. Advancement is open to these men if given elementary instruction in English. The road is willing to co-operate with the Department of Labor to improve the condition of its laborers and will facilitate any scheme for introducing educational facilities. This, however, must be along special lines adapted to railroad construction, tools, nomenclature and phrases, and would require a specially trained corps of instructors. The railroad would send a man at first to accompany teachers, gain the confidence of the men and show them the advantages of the proposition, also to act as an interpreter. An Italian-American would be preferred wherever possible, although this is not a necessity.

The company considers that some religious services would be exceedingly beneficial to men living in camps and would willingly give the use of one of the shops at Harmon, or in other locations,

for lectures or stereopticon views, or any educational or religious work. These men if literate are eligible to promotion at salaries ranging from \$75 to \$85 per month, and the company is anxious to aid in developing educational facilities and not only assures this Department of its co-operation, but of its assistance in any practical way.

Defects in all varieties of camps may be reduced to the following conditions: No facilities for garbage disposal, no toilets, drainage bad or no drainage, insufficient air space and overcrowding, no drinking water, no bathing facilities, no laundry facilities, no windows or insufficient windows, surrounding grounds unclean, vermin, cooking, eating and sleeping in the same room or car, shanty in need of repair, windows boarded or closed during the day or permanently closed, no fly screens, wooden bunks in tiers.

Box Cars

In examining box cars for housing laborers, it has been discovered that the man employed by the railroad company to clean the camp, usually follows the laborers to the tracks and loafs during the entire day instead of performing the work for which he is paid.

Where a commissary is responsible for lodging laborers, said commissary should be obliged to maintain the premises under his care in a clean and sanitary condition. All commissaries for railroads charge laborers a fixed amount of rent for lodging in box cars that are supplied free by the company, therefore they should be compelled to keep these quarters clean, and to maintain a separate car for cooking and eating purposes.

A gradual improvement is taking place in box-car equipment, and many old cars are being destroyed each year. Recommendations this year to the various railroads by this Bureau in connection with box-car equipment have included installation of iron bunks, a separate cooking and eating car, painted or kalsomined walls, painted floors, licensing of all commissaries by this Bureau, regular weekly disinfecting and washing entire interior of car, iron gratings on windows to prevent necessity for closing during the day, discontinuance of sleeping in the commissary store car, windows in cars increased in number and size and screened.

Recommendations for Labor Camps

The co-operation of the State Board of Health, the State Highway Department, all railway systems and all individual contractors is essential to success in the regulation and sanitation of labor camps. Under the present regulations of the State Board of Health concerning labor camps, a permit as to location is first issued by the local officer. Sometime later this Bureau is informed by the railroad, contractor, or other employer that a camp has been established at a certain place, and an inspection is made by the Bureau investigator after schedules are arranged. The contractor, railroad company, or other employer is thereupon notified if any violations exist and recommendations for improvement are made.

The new sanitary code established by the Public Health Council of the State of New York, chapter 5 on labor camps, throws the entire burden of responsibility for enforcing sanitary conditions, as far as the Board of Health is concerned, on the local health officer. That this system has been entirely inefficient in the past is demonstrated by the fact that during the inspection of 689 labor camps by the Bureau during 1914, 303 cases disclosed violations of practically every provision of the sanitary code. The new chapter taking effect January 1, 1915, creates no better system of inspection than that heretofore provided because local health officers are frequently physicians in towns remote from the camp, and chapter 5 does not provide for any system of inspection, does not establish any minimum rules, does not provide any penalty for violations, does not provide for any manner of enforcement, except through a local health officer.

As has been disclosed through investigations conducted by this Bureau, the condition of labor camps in brickyards, more than those in any other industry, demonstrates the utter inefficiency of the local health officer and the local town board as allies of the State Health Department. These local authorities are either woefully ignorant or deliberately negligent of their duties.

Regulation 6 states that a permit may be revoked for cause by the local health officer or the State Commissioner of Health "after a hearing." Although it may seem arbitrary to give the health officer power to revoke the permit without a hearing, nevertheless

it would appear that in many cases it may become necessary to immediately revoke the permit, and great harm could be done by waiting for a hearing in the matter, for conditions in the camp might become so dangerous that to continue the camp would become a menace to public health, and in a case of this kind the local health officer should be given absolute power of revocation.

Regulation 7 states that it shall be the duty of the owner, manager, foreman, etc., of the camp to detail *one person*, and that this person shall be responsible for the sanitary conditions of the camp. There is no reason why the owner, manager or foreman of a construction camp should escape liability by shifting the responsibility for the sanitary conditions of the camp to some other person. It is proper to detail a person to look after the sanitary conditions of the camp, but it seems that the manager, foreman or owner of the camp should be held responsible, for under the wording of regulation 7 the manager, owner, etc., of the camp could place any one person in charge and this person would be held responsible. This regulation would be stronger if it made the owner, etc., of the camp, responsible for the person in charge being a proper person.

Regulation 18 states that "the person in charge of the camp" shall enforce regulation 6, chapter 2, of the sanitary code. Regulation 6 of chapter 2 states that this person, having knowledge of any person affected with any disease *presumably communicable*, shall report conditions to the local health officer and that the report shall contain "all facts relating to the illness and physical condition of the affected person." This appears to be an impossible requirement for a person in charge of the camp unless he is a physician or knows something of medicine.

Regulation 19 states that it should be the duty of "*the person in charge of the camp*" to immediately "isolate the affected case." Unless it is possible to place a physician in charge of each and every labor camp, there should be some rule or regulation requiring competent persons, such as visiting nurses, to make frequent inspections of these camps. No mention is made in the sanitary code of penalties for any violations, but the penalty is fixed by the Public Health Law, nor is there any mention of the number of visits a public health officer shall be required to make to the different camps. All of which makes chapter 5 particularly ineffective.

It is therefore urged:

1. That the State Board of Health shall co-operate with this Department to the extent that certain definite rules and minimum regulations in relation to sanitation and housing of laborers shall be formulated, and that such rules be complied with by all applicants for a permit to maintain such labor camp within the State of New York *before such permit is issued*, and that a copy of said application be sent to this Bureau upon receipt by the State Board of Health.

2. That the total capacity of shanties and cars, where laborers are lodged, be required to be posted on the outside of each car or shanty for the information of investigators, as most inspections are made during the day time, when it is difficult to obtain evidence of overcrowding.

3. That commissary agents shall be compelled to post the price of their goods in their stores so that immigrants can ascertain the cost of provisions before making purchases.

4. That perishable goods be kept in a cold place and store-keepers be obliged to protect their wares from flies and other contamination.

5. That this Bureau be empowered to enforce previously issued recommendations within a specified time when living conditions are found to be unsanitary.

6. That all commissary store-keepers be licensed by this Bureau under the same provisions as lodging house keepers; by this method they could be compelled to sell provisions at regular market prices and to comply with sanitary requirements under penalty of revocation of licenses.

A commissary store if properly licensed and regulated need not necessarily be an evil, in fact it may be a benefit to the laborers who, at the end of a hard day's work may be enabled to purchase their supplies at the camp, and on credit, when any other procedure might well be a hardship.

The following recommendations as to construction and location of permanent camps are made:

Site.—Should be dry or be properly drained. Should be substantially free from trees. Should be remote from breeding places of mosquitoes.

Shacks.—Four hundred cubic feet air space per occupant. Preferably

divided into rooms with two cots each; every man to have his own bed which preferably should be made of metal. Building to be tight, constructed of tight matched boards or covered with water-proof paper.

Permanent ventilation on ridge, preferably of louver type, about $\frac{1}{4}$ square feet per occupant. Windows should contain at least 3 square feet of glass per occupant, and doors at ends of corridors should have glass lights. Distance between shacks should be equal to at least height of shack to ridge. Plans should be filed with responsible authority.

Water.—Should be satisfactory in quality as shown by bacteriological and chemical analysis before approval and its continued purity should be provided for by frequent inspection and analysis. Quantity should be sufficient at all times. Storage should be guarded against contamination.

Disposal.—Solid wastes should be incinerated. Liquid wastes should be treated by means of cess-pools, septic tanks, filters or chemicals according to local conditions.

Food Supplies.—Sources should be inquired into. Especially in the case of milk, tea and green vegetables. Screen all storage places.

Sanitaries.—Number must be adequate, allowing one seat to every 20 inmates of camp. Should be within reasonable distance from each house and not so placed as to menace a water supply. Houses must be fly proof.

Medical Attendance.—Hospitals should have capacity of 1 per cent of working force and 600 cubic feet of air space per bed. An isolation room should be provided.

Stables.—Should be at least 150 feet from dwellings. Floors should be graded so as to avoid accumulations of water, and this drainage collected in tight cess-pool. Manure should be removed daily.

Fumigation.—Bull pens at least once a week. Boarding houses weekly.

Family houses in which some boarders are kept every two weeks. All other houses once a month.

STATE CAMP SCHOOLS

Hearings before the Committee on Education of the House of Representatives of the Sixty-third Congress, second session, on illiteracy in the United States, developed the fact that there are (census of 1910) over 406,000 illiterates in the State of New York, that over 254,000 of these are in New York City, and that 96 per cent. of the illiterates in New York City are foreign born.

The result of an experiment conducted by the Board of Education in a factory in New York City demonstrates that an illiterate factory worker "can become literate in twelve weeks; that is to say, in 60 hours, at a total cost to the employer of the wages for 60 hours." Therefore, what can be accomplished in a factory for a factory worker can undoubtedly be accomplished for a laborer in a box car or a camp, *at the cost of 60 hours' work to the employer and an exceedingly small cost to the Department of Education.*

The subject of alien illiteracy and of organizing schools in connection with labor camps throughout New York State was taken up with the State Department of Education by the Bureau of Industries and Immigration in May, 1914. Plans were made by the former Department for the development and supervision of such schools by its Division of Vocational Schools and for the appointment in that division of an inspector of such schools. A civil service examination for such an inspector has lately been conducted, and thus the project is already well launched and at the end of another year will have been sufficiently tested to have developed the necessity for and feasibility of the entire project. During the camp season of 1914, lists of 445 inspected camps were forwarded to the Division of Vocational Training giving the following information: Kind of camp, principal nationalities of the laborers, the number of men employed, location, date of completion, nearest school.

CLASSES FOR ALIENS IN NEW YORK CITY

The city of New York through the local educational department is doing much to abolish alien illiteracy through its night schools, but night schools will not meet this necessity as illustrated by the census figures on illiterates in this city. Abolition of illiteracy must be begun in the factory, the mill, and other industrial centres, *during the day*; the alien laborer cannot or will not attend night schools, and it is the unskilled laborer who must be reached. By rendering him literate a new world is unfolded to him. On him is bestowed that greatest of all gifts, the ability to help himself. The State owes this duty to him in return for his economic value to the State.

In consideration of the necessity for the abolition of alien illiteracy in New York City and State it would appear to be an urgent recommendation:

1. That every school in New York State remain open 12 months in the year.
2. That the ten month year, five day week and five hour day be abolished, and that vacations for the teaching staff be arranged to take place successively as in other departments.
3. That class periods be arranged in double sessions for all grades, thereby creating a double capacity for each school.

4. That compulsory school attendance for a minimum of 60 hours be made a mandatory requirement for every illiterate alien over 16 years of age acquiring a residence in the State of New York.

With appropriations unavailable for additional schools, the present buildings should be utilized to their utmost capacity. The popularity of vacation schools testifies to this necessity.

The State of New York can and should solve every important problem of the illiteracy menace. From the ranks of illiterates spring many of the criminal, degenerate and unemployable classes. Therefore it is imperative that we use our available resources to their utmost capacity. The open school for every work day in the year is as necessary as the open fire house, hospital or police station.

The organization of ungraded classes in public schools became a recognized necessity fourteen years ago. There are now 215 of these classes in New York City, but as yet no statistics have been compiled showing the percentage of children of foreign birth or parentage in these classes. Such statistics should be available. In one class with a registration of only 16, there are 4 children of foreign birth, 3 Italians and 1 English. In another four-fifths of the registration is alien or of alien parentage, and in the lower East Side schools those of alien extraction apparently predominate. From a eugenic point of view, these statistics might show a close relationship with those compiled by the department of charities, hospitals and correction.

UNEMPLOYMENT

As the Legislature has enacted a law providing for the organization of a State Employment Bureau, the consideration of unemployment comes, strictly speaking, within the jurisdiction of that Bureau. Moreover this subject has been so exhaustively considered by Federal, State and municipal organizations that any discussion of it in this report could not propound information of either practical or statistical value. It would appear, however, that the problem is not one capable of immediate solution, any more than the situation has been one of immediate development.

Unemployment and the unemployable are so closely related that it would appear, in order to prescribe a remedy, that the un-

derlying reason should of necessity be analyzed. The startling situation of to-day cannot be adjudged to be the result of any immediate causes. It cannot be traced to any such recent developments as the trusts, the rate decision, the tariff or the war. The diagnosis must reach before and beyond into the realms of the heredity of the bulk of our population and particularly of our foreign population.

With the unemployable we must necessarily link the public charge, and the study of immigration statistics from 1820 to 1914, inclusive, a period of 95 years, shows the number of feeble-minded, insane, epileptic, diseased and generally unfit who have been admitted to the United States, under bond and otherwise, to be the principal and contributory cause of the serious situation with which this State is confronted to-day.

DEPENDENT AND DEPORTABLE ALIENS

Subdivision 4 of section 153 of the Labor Law directs that:

The Commissioner of Labor * * * shall * * * secure information with respect to such aliens who shall be in prisons, almshouses and insane asylums of the state, and who shall be deportable under the laws of the United States, and co-operate with the federal authorities and with such officials of the state having jurisdiction over such criminals, paupers and insane aliens who shall be confined as aforesaid, so as to facilitate the deportation of such persons as shall come within the provisions of the aforesaid laws of the United States, relating to deportation. * * *.

Recent investigations and public reports have made it perfectly clear that the State of New York is carrying an enormous expense for the care of dependent or delinquent aliens in hospitals, insane asylums and prisons. The evidence of this may easily be found in the reports of the State Board of Charities, Hospital Commission, Superintendent of Prisons and Special Commission on Alien Insane (which reported in 1914) and of the Committee on Inquiry in the Department of Health, Charities and Bellevue and Allied Hospitals appointed by the Board of Estimate and Apportionment in New York City.

It also seems to be very clear that this burden is largely the result of failure to properly exclude those defective aliens, or aliens likely to become a public charge, who are excludable under the immigration laws. To one phase of this matter this Bureau

has given special attention this year and offers some direct evidence of the failure of exclusion provisions of the existing law. This has to do with the admission of excludable aliens under bond.

During the year 1912 there were admitted by the immigration officials to the United States, under bond, 914 aliens, of which 716 or 78.3 per cent were destined to the State of New York. In 1913, 678 were admitted, of which 381 or 56.2 per cent were destined to New York; and in 1914, 905, of which 595 or 65.7 per cent were released to destinations in New York State.

It has been estimated that probably not over 5 per cent of these bonds have ever been enforced, and were they enforceable, the damage to the future welfare of the State would still be incalculable. One paragraph of the statement prepared by the chairman of the Committee of the Conference on Dependent Aliens called by the New York City Chamberlain on August 11, 1914, reads as follows:

The Rules and Regulations provide for an evasion of the Immigration Law which expressly prohibits the entrance of certain undesirable persons into the United States. This evasion is accomplished by the making of bonds under the terms of which, limited indemnity may be exacted from persons giving bonds, should the excludable aliens become public charges after entrance is accomplished. *Such bonds are seldom enforced, are usually worthless, and even if enforced, leave the excludable alien a burden on the commonwealth, or a social menace, which in the case of the mentally defective classes, cannot be estimated in terms of money.*

Between July 1, 1914, and October 1, 1914, there were admitted to destinations in New York State under bond 190 aliens, of which 55 were on public charge bonds, 46 were on public charge and school bonds, 13 were *feeble-minded*, 1 was *insane*, 1 was *imbecile*, 66 under various bonds deportable within one year, and 8 under various bonds deportable within six months. An investigation conducted by this Bureau of these 190 cases developed the following facts: (1) that correct names are not given on bonds; (2) that the bonded alien is sent out of the State and city; (3) that correct addresses are not given; (4) that the persons to whom the aliens are consigned immediately move away, leaving no address and cannot be located; (5) that names are changed and the bonded aliens placed into institutions; (6) that the terms of bonds are violated; and (7) that in one case the bonded alien was a

cripple, unable to work, and the father of the family was also a cripple.

The cases of the above 15 feeble-minded, insane and imbecile aliens admitted under bond to this State were specially investigated by this Bureau and the reports thereon are as follows:

1. *In case 98628/258 — Owen, Teresa, 40, f. Irish. P. C. bond. Insane. Has been released to her husband and is cohabiting with him, with what disastrous results to posterity and the economic future of the State of New York, no one can foretell. She is a menace to the welfare of the State and should be removed and segregated pending removal.*

2. *Case 98628/416 — Pesse Pitum, 9, f. Imbecile. P. C. bond guaranteeing departure within one year and to be placed in an institution prior thereto. Has not been placed in an institution as required by the terms of the bond. Terms of bond should be enforced.*

3. *Case 98628/700 — Reich, 6, m. Austro-Hebrew. Feeble-minded. P. C. bond to depart within one year. Father unemployed. Bond should not be renewed. Should be deported. Not receiving treatment.*

4. *Case 98628/724 — Brosnaskas Franciezek, 45, m. and son, 5, m. Feeble-minded. P. C. bond to depart within one year. Should not be renewed. Should be deported. Not receiving treatment.*

5. *Case 98628/918 — Castellino, Vittorio, 35, f. Feeble-minded. To depart within one year and in meantime to be placed in an institution. This woman has been released and at date of investigation, December 11, 1914, was cohabiting with her husband. The release of such a case cannot be too extravagantly condemned from a eugenic and economic point of view. This woman is considered a menace to the welfare of the State, and should be removed and segregated pending deportation. Terms of bond have been violated.*

6. *Case 98628/918 — Moses Zalkowski, 56, m; Sore, f., and Sosie, 20, f. Feeble-minded. The feeble-minded immigrant has not been placed in an institution in violation of the terms of her bond. She is of marriageable age and therefore is a menace of the welfare of the State of New York and should be removed and segregated pending deportation. Bond should be forfeited.*

7. *Case 98628/276 — Peché Czernjawkaja, 16, f. Russian-Hebrew. Feeble-minded. P. C. bond to depart within one year. Bond should be forfeited. Terms of bond have been violated, inasmuch as the immigrant has not been placed in an institution. She is of marriageable age and therefore a menace to the welfare of the State of New York. Should be removed and segregated pending deportation.*

8. *Case 98628/311 — Kozewaka, Ester, 22, f. Feeble-minded. P. C. bond to depart within one year and to be treated in an institution meanwhile. Investigation disclosed that the immigrants had moved to an address unknown. This is a frequent practice among bonded immigrants and is a decided menace to the community. Bond should be forfeited in all such cases and warrants issued, but this procedure would not reduce the danger of the admission of a feeble-minded female of marriageable age to the community. Should be removed and segregated pending deportation.*

9. Case 98628/312 — Rivka Niedicz, 18, f. Russian-Hebrew. *Feeble-minded.* P. C. bond to depart within one year, meanwhile to be treated in an institution. *Bond should be forfeited. Girl not placed in an institution, nor has she received any medical attention. She is of marriageable age and therefore a menace to the welfare of the State of New York. Bond should be not renewed and she should be segregated pending deportation.*

10. Case 98628/332 — Martha Kunigoniute, 20, f. *Feeble-minded.* P. C. to depart within one year, meanwhile to be placed in an institution. *Terms of bond have been violated. Immigrant has not been placed in an institution. Bond should be forfeited and she should be segregated pending deportation. She is of marriageable age and a menace to the welfare of the community.*

11. Case 98628/430 — Eva Stypanovitz, 18, f. Russian-Hebrew. *Feeble-minded.* P. C. to depart within one year. *Receiving no treatment and case diagnosed by relatives. Is of marriageable age and a menace to the community. Bond should be forfeited and she should be segregated pending deportation.*

12. Case 98628/384 — Grossi, Concetta, 17, f. Italian. *Feeble-minded.* P. C. to depart within one year. *Address given was a mail address only and no way of tracing immigrant could be discovered. Bond should be forfeited as this immigrant is a menace to the community.*

13. Case 98628/548 — Abraham Ali, 16, m. Turk-Syrian. *Feeble-minded.* P. C. to depart within one year and placed meanwhile in an institution. *Bond has been violated. Immigrant has left this State so this Bureau is not further concerned.*

14. Case 98628/153 — Di Rito, Concettina, 15, f. *Feeble-minded.* P. C. bond to depart within one year, September 6, 1914, to Domenico Di Rito, 132 Warren street, Yonkers, N. Y. *Has been deported.*

15. Di Pasquale, Francesca, 13, f. *Feeble-minded.* Italian. P. C. bond to depart within one year, in meantime to be treated in institution. *Has been deported.*

From the foregoing, it would appear that the practice of admitting insane, feeble-minded and imbecile aliens into the State of New York should be unconditionally condemned. The records of the departments of charities, correction and hospitals in this State are a vigorous protest in themselves against the ever-increasing burden of responsibility for the care of such aliens and their progeny, and this burden is yearly increasing as a result of the action of the Federal government in admitting aliens, who, upon release, immediately violate every provision of the ineffectual bonds upon which such admission is often fraudulently and surreptitiously obtained.

The Bureau of Industries and Immigration hereby recommends:

1. *That all of the insane, feeble-minded, epileptic and imbecile aliens, now released under bond within the State of New York shall be recalled, maintained at the expense of the steamship companies, or by the Federal government, segregated, and deported.*

2. *That the Secretary of Labor shall in future protect the State of New York against the admission of the insane, feeble-minded, epileptic, imbecile or any aliens afflicted with any loathsome or contagious disease, by absolutely refusing admission under bond or otherwise to any of these prohibited classes to destinations within this State.*

ACCIDENTS

All complaints concerning industrial accident cases in New York State are now referred to the Workmen's Compensation Commission by this Bureau; complaints are taken in the language of the complainant, are then translated and application blanks filled out for non-English speaking aliens applying for this assistance.

Many complaints in accident cases have been received from non-resident aliens particularly from the mines of Pennsylvania. These complainants have endured much hardship to secure the means to come to this city, in order to file complaints at this Bureau, and the majority of their cases are extremely pitiful and heart-rending.

The utmost that this Bureau can accomplish for these unfortunate people is to take the complaint and refer it to a bonded attorney in the nearest town to their place of residence. In the majority of cases the fact develops that this bonded attorney is counsel for the defendant company, and therefore cannot take the case.

EMPLOYMENT AGENCIES

New York City

Employment agencies in New York City were formerly inspected by this Bureau once a year. By agreement with the Commissioner of Licenses, the records as required by section 155 of chapter 514 of the Laws of 1910, are now added to his inspection reports and any violations are reported to this Bureau by him.

It is hereby recommended that section 155 of chapter 514 of the Laws of 1910, as amended, providing for the keeping of cer-

tain records be repealed. Chapter 700 of the Laws of 1910, as amended, gives full jurisdiction to the Department of Licenses in New York City, to obtain all information necessary for statistical purposes.

The extraordinary co-operation which has been accorded to this Bureau by the Department of Licenses has resulted in speedy hearings being arranged on all complaints referred to it and fines, revocation of licenses or refunds being ordered on conviction. Cases against employment agencies in the past year number 33 violations and 172 complaints covering non-return of fee, misrepresentation and other miscellaneous abuses. A letter of the Commissioner of Licenses of December 11, 1914, states that:

An inspection of employment agencies just completed shows but a few of the agents who are not keeping the alien records provided by your Department. The entries are now being made in the registers used for applications for employment, and inspectors have been requested to report in writing every time they visit any agency whether or not these records are being kept. We hope by this means to keep the records up-to-date.

Buffalo

Improvement of the employment agency situation in Buffalo may also be reported. Through the co-operation of the Mayor's Commissioner of Licenses and the activity of the Bureau investigations the law is now being observed by every employment agency in that city.

Complaints against employment agencies in Buffalo during the year 1914 numbered 26 violations and 134 cases and have covered every form of exploitation. Violations by several contract labor agents were particularly flagrant, involving in one complaint misrepresentation to 86 alien laborers who were shipped to an out-of-town destination, abandoned and left without food or means of return transportation. This case was tried by the Commissioner of Licenses and the district attorney of Buffalo, on its presentation by the Bureau of Industries and Immigration, and the respondent is now complying with the law.

The employment agency law of the State of New York has certain provisions for the protection of its foreign born population. It requires that licensed agents shall post in their places of business certain sections of the law in the English language, and the

language "best understood by the majority of applicants" doing business in such places. It provides that agents shall issue such receipts to applicants, which contain certain sections of said law in a similar manner as the said posters. The contract forms for out-of-town positions must likewise do justice to immigrant applicants for employment, by being printed in a language which the holder of such contract will understand. While enforcing the Labor Law with reference to employment agents the practice was followed to report violations of the employment agency law, if any of the above parts of said law were involved, to the Commissioner of Licenses of Buffalo. This procedure secured, comparatively speaking, a certain degree of success.

Rochester

The city charter exempts Rochester from the employment agency law, section 635 of said charter reading:

Certain acts not to apply. The provisions of Article 5 relating to pawnbrokers, Article 6 relating to junk dealers, and Article 11 relating to employment agencies of Chapter 25 of the Laws of 1909, known as the General Business Law, etc., etc., * * * and all acts amendatory thereof, and supplementary thereto, heretofore and hereafter enacted, do not apply to the City of Rochester, which is governed, controlled and regulated in respect to several matters by the provisions of its charter. Chapter 575 of the Laws of 1907 and amendments thereto now or hereafter enacted.

Under section 86 of said charter the common council has the power to adopt ordinances for the regulation of employment agencies. On December 10, 1907, an ordinance was passed, which went in force on January 1, 1908, regulating such agencies. It was introduced and adopted and is very similar to the State law.

Rochester, with a population of about 220,000, having industrial activities that employ a large number of immigrants, needs a rigorous supervision of employment agents. There are at present seven licensed agents, but in the Italian section a number of Italian saloonkeepers furnish railroads, highway contractors and canal contractors with unskilled Italian laborers. There is also a permanent Polish colony in Rochester from which laborers are furnished to contractors.

On receipts from two agents is printed chapter 700 of the Laws

of 1910, a law which has no force in Rochester, while on another receipt the ordinance is printed in part without mentioning the fact that this is a copy of an ordinance of the city of Rochester. Ignorant foreigners will not readily understand their rights against employment agents with such inadequate information about the city ordinance, which contains important provisions for their protection. None of the agents inspected have copies of this ordinance posted in their offices, nor have they contract forms, such as are required.

The organization of the State Employment Bureau will no doubt create a considerable deficiency in the business of employment and contract labor agents, particularly in such cities as Buffalo and Rochester.

The 1914 report of the Commissioner General of Immigration contains the following:

Many complaints reach the Bureau regarding the perpetration of injustice and fraud by private employment agencies engaged in interstate business. In order to protect applicants for employment from such injustice and fraud and guard the public welfare, public and private employment agencies doing business in more than one State should by Federal laws be placed under the supervision of the Department of Labor.

This recommendation is hereby endorsed by this Bureau, as many cases on file in this office disclose all of the abuses entailing loss of money, physical suffering and privation quoted in the report of the Commissioner General under date of June 9, 1914.

During the year 1914, there were 365 violations registered against employment agents, 55 of which were interstate cases involving men who were shipped to places in every section of the United States, and who were stranded and obliged to endure all the hardships described in Mr. Powderly's report. Cases against two agents alone involved 137 men, and it is reasonable to suppose that many men were shipped whose complaints never reached this Bureau. Men were shipped to Columbus, Ohio, Boston, Mass., Wheelerville, Pa., Baltic, Conn., Franklin, Va., New London, Conn., Chambersburg, Pa., South Norwalk, Conn., Calumet, Mich., Monroe Bridge, Mass., Asbury Park, N. J., and points in North Carolina, Indiana, South Carolina, Colorado and Michigan.

IMMIGRANT LODGING HOUSES

Immigrant lodging houses in New York City are inspected once monthly under the provisions of section 156, subd. 4 of chapter 514 of the Laws of 1910, as amended. The definition in the statute of an immigrant lodging house is exceedingly broad, and could be applied to any first-class hotel equally as well as to a two or three room tenement apartment.

It is recommended that this entire section be further amended as per suggestions rendered by the Commissioner of Labor to the Factory Investigating Committee.

In New York there are at present 65 and in the Western District 41 licensed immigrant lodging houses.

IMMIGRANT HOMES

In New York City there are 39 immigrant philanthropic societies, and in Brooklyn 4, with 2 institutions doing a guide service business. Monthly reports are required from all alien institutions showing the total number of inmates handled during the previous month.

The abnormal conditions existing at present present a high contrast to the figures submitted in normal times.

Employees in a few of these institutions have at times been found to be improper persons. An instance recently brought to the attention of this Bureau involves an employee of one of the most prominent of these societies, in the practice of shipping alien seamen and charging exorbitant fees and bonuses in connection therewith. This case has been submitted to the Federal authorities.

Immigrant societies having lodging accommodations for which they make a sustaining charge and who employ guides who charge a fee for services should be licensed. Many institutions so charging immigrants conduct a profitable business and are in no sense philanthropic.

The majority of these institutions are, however, truly philanthropic, the most conspicuous organization in size and scope being the Hebrew Sheltering and Immigrant Aid Society, probably the most highly organized charitable institution in the world. The Society for Italian Immigrants, the Austrian Society, the Hungarian Relief Society, the Home for Scandinavian Immigrants,

the Russian Society and the Travelers Aid Society are all doing important work in their various spheres.

COMPLAINTS

In the matter of handling complaints presented to this Bureau the procedure involves interviewing the complainant by one of counsel, translation of complaint into English, and if an amicable settlement cannot be effected by the Bureau, the complainant is immediately referred to the department or agency having jurisdiction. All complaints referring to banks, frauds, interpreters, lawyers, notaries, steamship ticket agents, and white slavery, disclosing an element of fraud, are investigated and the result of the investigation submitted to the proper authorities. (See section 153, subd. 5, chapter 514 of the Laws of 1910.)

By arrangement with the Legal Aid Society, the Police Department and the Bureau of Licenses, duplicate complaint cards of cases referred are returned to this Bureau with the disposition of the case noted thereon, thus completing our records of final action by the Department having jurisdiction.

The classification and disposition of complaints on all subjects is as follows:

<i>Subject of complaints</i>	<i>Disposition of case</i>
Accidents.....	Refer to Workmen's Compensation Department, in New York State, and to bonded attorney out of state.
Aliens in prison.....	Secure information with respect to such aliens who shall be in prison, almshouses, and insane asylums of the State, and co-operate with proper authorities. (See Sec. 153, Subd. 4, Chapter 514 of the Laws of 1910.) Where aliens claim to have been unjustly convicted refer these cases to Prison Association.
Banks.....	State Banking Department. (See Sec. 153, Subd. 4, Chap. 514 of the Laws of 1910.)
Baggage.....	Arrange with express companies for tracing system.
Deportation.....	Refer to State or Federal authorities having jurisdiction.
Domestic relations.....	Refer to Legal Aid Society or Domestic Relations Court.
Employment agencies.....	Refer to Department of Licenses.
Frauds.....	Refer to district attorney or Legal Aid Society.
Interpreters.....	Refer complaints to proper authorities.
Immigrant lodging houses...	Investigate and enforce law.
Immigrant societies.....	Investigate and refer to proper authorities.
Labor camps.....	Investigate and refer to proper authorities.
Lawyers.....	Refer to district attorney or bar association.
Lost immigrants.....	Trace or refer to Police Department.
Notaries.....	Refer to district attorney or to Secretary to the Governor.
Runners, hackmen and porters	Refer to Bureau of Licenses or Police Department.
Steamship ticket agents....	Refer to proper authorities.
Wages.....	Refer to Legal Aid Society if amicable settlement cannot be effected.
White slavery.....	Refer to proper authorities.
Miscellaneous.....	Refer to proper authorities.

All assignments and complaints covering the following subjects are investigated by the docks and ferries squad consisting of four specially trained investigators: Hotels and immigrant transfer houses, steamship and railroad tickets, baggage, money exchange, hackmen, porters and runners, shipping of coal passers, seamen, etc., telegraph agents.

INSPECTIONS

Daily schedules of assignment and inspection work are prepared and daily reports rendered, so that any investigator can be practically located at all times.

Scope. The inspection work as organized for the Eastern district from New York north to the Canadian border and west to Syracuse includes: Bootblack parlors, docks and ferries, employment agencies, expressmen, Greek coffee houses, hackmen, immigrant homes, immigrant lodging places and hotels, labor camps, lawyers, notaries, philanthropies, porters and runners, real estate, railway stations, steamship lines, steamship ticket agents, transportation.

Distributing agencies for immigrants were formerly not inspected, and immigrant societies once yearly; at present the work of inspecting these two activities is correlated and inspections are made once monthly. Monthly reports of the number of immigrants handled by each are required.

Immigrant lodging places, hotels and transfer houses were formerly inspected once yearly. At present all within Greater New York and Buffalo and its suburbs are inspected once monthly, and in isolated sections at intervals. Monthly reports of all immigrants handled are required from all immigrant hotels and transfer houses.

All terminals are covered by daily inspections, and the importance of this work for the protection of arriving and departing immigrants cannot be exaggerated, as it is at these points that they are exploited by hackmen, runners, porters, expressmen, confidence men and other agents. The arrival and departure of every passenger steamer carrying aliens is covered, and investigators are governed in this matter by the New York Herald shipping chart and wireless service.

Coastwise Steamers.—Inspections are made of all steamers belonging to the following lines (coastwise steamers) in order to observe conditions of the rooms used exclusively by immigrants: Ward Line, Pier 13, East river; Savannah Line, Pier 35, North river; New York & Hudson Steamship Company, Pier 43, North river; Fall River Line, Pier 19, North river; Lamport & Holt Line, Pier 8, Brooklyn, N. Y.; Old Dominion Line, Pier 25, North river; Providence Line, Pier 14, North river, New York & Cuba Mail, Pier 16–18, East river. In some instances it is advisable that investigators, working in pairs, be assigned to make trips from point to point to observe the manner in which immigrant passengers are handled. Bureau cards are posted on docks and steamers.

Docks, Ferries and Terminals.—During the fiscal year this division made 543 inspections of which number 507 were made of docks and ferries, and 108 of railroad terminals. This work was regularly organized about March first. The inspection of docks and ferries consists of investigation on the arrival and departure of trans-Atlantic steamers, and inspection of ferries where a number of immigrants arriving on railroads and docks outside this State come into New York. The results of these inspections have been a number of successful prosecutions of exploitation practiced on immigrants by various expressmen, porters, and runners, licensed and unlicensed. The systems and number of exploitations have been greatly reduced through the evidence obtained by the Bureau which has resulted in numerous convictions. The following are typical cases:

On April 24th one ——— complained that on April 23d he arrived on the S. S. ———, and at Ellis Island was taken in charge by a guide who conducted him to the home of his brother-in-law in ——— street. Shortly after his arrival, a man claiming to be an Ellis Island official called and informed him and his relatives that he was wanted at Ellis Island again to sign certain documents necessary for his final admission to the United States. ——— left the house accompanied by this man, and on the elevated station he was ordered to surrender his identification papers and money, whereupon he gave up his passport, letters and all the money he had in his possession, namely, \$60, after which he was abandoned by his companion. Within three days one Frank J.

Castellane was arrested at the Battery, identified by a number of similar victims, and shortly afterwards was convicted in the Court of General Sessions and sentenced to a maximum of five years in States prison. In this case certain private organizations and the Police Department were unable to apprehend this swindler who had been operating for nearly two years. As far as it is known eighteen immigrants were his victims. On receipt of the complaint by this Bureau he was apprehended in about three days.

On April 15, ——— a 17 year old immigrant boy complained that he was defrauded of \$30.25 by two unknown men on his arrival in New York on S. S. ——— the previous day. He explained that he had arrived as a cabin passenger and outside the ——— Line dock he was met by two men wearing uniforms, caps, and badges, who placed him on a wagon, one obtaining from him \$10 and the other \$20.25 to buy as they informed him, a ticket to Madison Street, New York. He was placed on an elevated train near the dock, and there abandoned. Within two hours after the complaint was received by this department one of the men was arrested and later sentenced by the Court of Special Sessions to the reformatory. The other man did not appear again on the docks until three months later, when he was arrested and through the co-operation of the Commissioner of Licenses, the express owner employing the defendant was compelled to make full restitution to the immigrant.

In many cases investigated rapid results were obtained through the co-operation of the Commissioner of Licenses whose assistance has been invaluable. Where conditions required immediate improvement that department has always exercised its ample jurisdiction and this Bureau has always secured prompt action on complaints. Thus the number of porters operating at the barge office was greatly reduced, by order of the Commissioner of Licenses; likewise the number of expressmen operating at the West 23d Street ferry. They are now limited to two men to each wagon, whereas formerly expressmen operating under pretentious trade names, whose sole outfit consisted of one horse-drawn wagon, no office and a telephone call in some nearby saloon, would employ as many as twenty men who received no salary, but worked on a commission basis. These "agents" wear uniforms and gold braided caps and badges, upon which they rely to convince un-

suspecting immigrants that they are officials, and after having secured their confidence frequently charge from \$3 to \$25 for a ferry or local transportation ticket, the correct cost of which should be from three to five cents. These men direct passengers to hotels where they obtain a considerable part of the excessive rate charged by the hotel as commission. Whenever such offenders are arrested charged with operating as public porters or runners without a license, their defense is that they are employees of an express company, and they thereupon produce baggage checks as evidence, and are supported by the testimony of their employer in their favor.

On complaint of this Bureau the Commissioner of Licenses ordered the appearance before him of several licensed express owners operating at these terminals. At a subsequent hearing it was shown that many were using the "express agent" title simply as a subterfuge to operate as porters, runners, etc., without licenses.

The frequent inspections above mentioned enable investigators assigned to this special work on the docks, to familiarize themselves with the various systems of exploitation used, and much fraud is prevented by their presence. Upon receiving complaints they are thus able to locate violators of the law from descriptions given by complainants, or identify them by their method of operating.

ALIEN COLONIES

Eastern Division.—In the Eastern Division Albany has a negligible foreign population with some Poles, Greeks and Turks. Albany is, however, an exceedingly important transfer point for foreigners when Hudson river navigation is open and State contracts are being operated, owing to the fact that the great majority, if not all alien unskilled laborers, who work for the State contractors travel from New York City to Albany by boat.

St. Lawrence county has a large foreign population mostly Hungarians and Poles. These foreigners are mostly employed in the paper and pulp industries, with the exception of those in Massena, where there are a considerable number of Hungarians employed in the aluminum works, and permanent foreign settlements are located in Herkimer, Little Falls, Gloversville, Fonda, Amsterdam, Schenectady and Troy.

Western Division.—In the Western Division there are in Rochester, Italian and Polish; in Syracuse, Italian and Polish; in Utica, Italian and Polish; in Rome, largely Italian; in Watertown, Hungarian and Roumanian; in Oswego, Italian and Polish; in Geneva, Italian; in Auburn, Italian and Polish; in Geneseo, Italian, and in Batavia, Italian and Polish settlements. Alien colonies exist also in the Western Division at Elmira, Binghamton, Olean, Lockport, Niagara Falls, Lackawanna, Tonawanda and North Tonawanda, Dunkirk, Jamestown and Salamanca.

WORK IN BUFFALO

Next in importance in the State to New York City follows Buffalo with its Polish population of 90,000. During the past fiscal year the activities of the Western Division of the Bureau of Industries and Immigration, in compliance with the requirements of chapter 514 of the Laws of 1910, shows an appreciable increase over last year. At the present time two field investigators, a Polish stenographer and the supervising investigator, recently transferred from the New York office, constitutes the staff of this Division. This, comparatively speaking, small force has command of nine languages.

During the past fiscal year 601 aliens and immigrants speaking twenty different languages have applied for aid and information to this office, of which 237 applied for employment, 173 for legal advice, 165 miscellaneous cases, 13 in naturalization matters, 7 in cases of deportation and 6 for interpretation of the Workmen's Compensation Law. Of these there were 286 Poles, 98 Italians, 67 Hungarians, 42 Russians, 27 Germans, 22 Greeks, 19 Croatians, and the balance of diversified nationalities 52. Applications came from the different parts of the State of New York, and such distant points as Montana, Washington, California and outlying provinces of Canada were represented. This fact alone indicates the great usefulness of the Bureau in disseminating information and advice to non-English speaking immigrants. This Division is recognized by foreigners as a clearing house for advice and information, the importance of which is rapidly growing.

Complaints are under the same classification as in the New York office. The transportation problem and the employment agency

situation in Buffalo, fraudulent practices of notaries, interpreters and real estate speculators disclose the same familiar exploitations practiced elsewhere in the State.

Conditions at the railway stations of Buffalo were investigated on ninety occasions. An approximate estimate gives under normal conditions about two hundred and five thousand immigrants passing through the city of Buffalo each year, of which 70,000 arrive from New York over five trunk lines and continue their journey to points beyond this city; 5,000 have Buffalo for their destination, 30,000 are through passengers, not transferred from one station to the other, and 100,000 are general travelers. These figures refer to westbound immigrants in a normal year, and do not include east bound travelers, the majority of whom are destined to New York and Boston on their way to Europe. The problem confronting this office is to acquire perfect control over the situation at the railroad station, and to supervise the activity of the many cabmen and expressmen who frequent the vicinity of those transfer points.

The city of Buffalo passed an ordinance on June 11, 1914, regulating public vehicles. This ordinance went into effect July 16, 1914. In accordance with the provisions of this law, all cabmen soliciting on public thoroughfares must be licensed. At the public hearing which was held in the Counsel Chamber of the city, the Bureau of Industries and Immigration recommended that said ordinance should require every licensed cabman to post in his vehicle a list of maximum rates of fare to apply to all parts of the city, and that these lists should be posted in the English, German, Polish, Italian and Hungarian languages. This recommendation was adopted and this office prepared the necessary translations for the city authorities.

Conditions in the immigrant waiting room of the largest station require improvement. The ventilation is poor, seating capacity insufficient, and the sanitary arrangements are bad.

The Bureau is under obligation to many public officials, educators and others for advice and co-operation in the year 1914, which obligation is here gratefully acknowledged.

Respectfully,

MARIAN K. CLARK,
Chief Investigator.

COMPARATIVE SUMMARY OF WORK

	1911	1912	1913	1914
Complaints received.....	515	1,112	2,121	3,482
Requests for information and advice.....	551	380	798	2,571
Total.....	1,066	1,492	2,919	6,053
Inspections.....	1,588	1,821	1,779	†3,523
Thereof labor camps.....	272	238	185	†689
Thereof lodging places.....	40	616	448	†1,130
Thereof other.....	1,276	967	1,146	†1,703
Reinspections.....	*	501	289	‡
Investigations.....	749	844	1,838	3,029
Total inspections and investigations.....	2,337	3,166	3,906	6,551
Names of children of school age referred to school authorities:				
New York City.....	7,324	13,129	14,150	19,012
Remainder of state.....	1,045	2,203	2,900	2,073
Total.....	8,369	15,332	17,050	21,085

* Data not available.

† Inclusive of reinspections.

‡ Reinspections included with inspections.

COMPLAINTS

SUBJECT OF COMPLAINT	NUMBER OF CASES			
	BOTH NEW AND OLD		NEW CASES IN 1914	
	Total	Thereof settled by Bureau	Total	Thereof settled by Bureau
Labor and living conditions.....	2,386	1,047	2,034	816
Accidents.....	155	57	124	36
Contract labor.....	8	4	.....	.....
Employment agencies.....	407	105	365	75
Labor camps.....	409	364	394	355
Wages.....	1,407	517	1,151	350
Legal affairs.....	204	148	154	108
Collection agencies.....	7	4	4	3
Information bureaus.....	3	2	1	.....
Lawyers and advocates.....	161	116	129	88
Notaries.....	33	26	20	17
Transportation.....	421	324	322	254
Baggage.....	45	38	37	30
Hackmen.....	11	4	9	3
Immigrant homes.....	2	1	2	1
Immigrant lodging places.....	101	101	101	101
Porters.....	3	2	3	2
Runners.....	17	6	16	6
Steamship ticket agencies.....	236	170	149	110
Transfer companies and expressmen.....	6	2	5	1
Savings and money.....	299	172	212	110
Banks.....	185	127	122	79
Benevolent societies.....	13	6	9	3
Insurance.....	38	3	37	2
Loans.....	60	34	41	24
Money exchange.....	3	2	3	2
Miscellaneous.....	1,012	545	760	388
Aliens in prison.....	11	6	5	2
Assault.....	9	6	6	5
Deportation.....	48	16	39	9
Domestic relations.....	47	25	34	17
Disorderly houses.....	6	1	4	.....
Extortion.....	9	4	3	2
Exploitation.....	3	3	2	2
Frauds.....	225	104	158	67
Interpreters.....	9	1	4	1
Larceny.....	43	24	35	20
Lost articles.....	90	66	67	48
Lost immigrants.....	25	14	15	7
Misleading advertisements.....	16	12	7	4
Partnership.....	13	11	8	7
Real estate.....	117	69	81	47
Relief.....	1	1	1	1
White slavery.....	13	5	5	1
Other.....	327	177	286	148
Grand total.....	4,322	2,236	3,482	1,676

* Includes 3,529 cases in which both parties concerned resided in New York State, 514 in which one resided in this State and the other without, and 279 in which both resided outside of New York State.

† Does not include 176 cases in which money settlements were effected amounting to \$4,007.21. Other cases included in the table involved money settlements amounting to \$3,034.37, making a total of \$7,041.58 in money settlements effected in both new and old cases.

COMPLAINT CASES INVOLVING VIOLATION OF LAW

SUBJECT AND LAW	NUMBER OF CASES		
	From previous year	New cases	Total
Banks:			
Laws 1910, Chapter 348.....	5	10	15
Laws 1911, Chapter 393.....	7	4	11
Penal Law, Section 302.....	7	7	14
General Corporation Law, Section 22.....	4	4	8
Employment agencies:			
Laws 1910, Chapter 514.....	27	59	86
Labor camps:			
Labor Law.....		61	61
Industrial code.....		43	43
Lawyers:			
Penal Law, Section 270.....	12	16	28
Misleading advertisements:			
Laws 1913, Chapter 590.....		1	1
Notaries:			
Penal Law, Section 1820-a.....	8	19	27
Runners:			
Laws 1911, Chapter 540.....		1	1
City Code Ordinances, Section 329-a.....		1	1
City Code Ordinances, Section 465.....		3	3
City Code Ordinances, Section 319.....		1	1
Steamship ticket agencies:			
Laws 1911, Chapter 578.....	16	12	28
Penal Law, Section 1563.....	36	77	113
Lodging places:			
Laws 1911, Chapter 845.....		101	101
Total.....	122	420	542

REQUESTS FOR ADVICE AND INFORMATION

SUBJECT	Verbal requests	Written requests	Total
Accidents.....	111	62	173
Agricultural opportunities.....		30	30
Assault.....	10	3	13
Assistance.....		8	8
Baggage.....		16	16
Bankruptcy law, etc.....	46	10	56
Banks.....		6	6
Breach of contract.....	30	2	32
Contract labor.....	3		3
Custom duty.....		1	1
Date of landing.....		22	22
Deportation.....	47	10	57
Domestic relations.....	17	7	24
Educational.....	4	4	8
Employment.....	482	54	536
Employment agencies.....	61	19	80
Farm lands.....		6	6
Federal immigration acts.....	47	27	74
Foreign affairs.....	27	16	43
Frauds.....		13	13
Information cases in hands of other agencies.....	45		45
Insurance.....		8	8
Lawyers.....		22	22
Legal advice.....	223	32	255
Loans.....	20	16	36
Lost baggage.....	23		23
Lost immigrants.....		6	6
Medical.....	4	1	5
Miscellaneous.....	225	155	380
Naturalization.....	58	47	105
Partnership.....		4	4
Passports.....		1	1
Real estate.....	118	40	158
Relief and assistance.....	12		12
Shares of stock.....		7	7
Steamship ticket agencies.....	21	17	38
Translations.....	61		61
Transmission.....	19	11	30
Wages.....	131	43	174
Total.....	1,845	*726	2,571

* Of these, 218 came from New York State, 127 from Pennsylvania, 50 from New Jersey, 47 from Ohio, 42 from Massachusetts, 33 from Michigan, 31 from Connecticut, 30 from Illinois, from 1 to 22 each or a total of 130 from 32 other states, and 18 from Canada.

INSPECTIONS

Labor and living conditions.....	2,203
Employment agencies.....	271
Immigrant homes.....	108
Labor camps.....	694
Lodging places.....	1,130
Legal affairs.....	152
Interpreters in court.....	11
Lawyers.....	3
Notaries.....	138
Transportation.....	927
Cabmen.....	24
Distributing agency.....	7
Docks and ferries.....	595
Expressmen.....	1
Porters.....	3
Railroad terminals.....	109
Runners.....	9
Steamship ticket agencies.....	179
Savings banks.....	199
Miscellaneous.....	46
Community study.....	5
Real estate.....	3
Other.....	38
Grand total.....	3,527

INVESTIGATIONS

SUMMARY	Cases from previous year	New cases	Total
Labor and living conditions.....	242	1,042	1,284
Accidents.....	11	23	34
Contract labor.....	9	.....	9
Employment agencies.....	43	280	323
Labor camps.....	4	31	35
Wages.....	175	708	883
Legal affairs.....	62	136	198
Collection agencies.....	4	4	8
Information bureaus.....	1	.....	1
Lawyers and advocates.....	50	105	155
Notaries.....	7	27	34
Transportation.....	166	238	404
Baggage.....	6	23	29
Hackmen.....	3	13	16
Immigrant homes.....	.....	1	1
Immigrant lodging places.....	80	.....	80
Porters.....	.....	3	3
Runners.....	2	24	26
Steamship ticket agencies.....	73	163	236
Transfer companies and expressmen.....	2	11	13
Savings and money.....	70	139	209
Banks.....	57	108	165
Benevolent societies.....	4	2	6
Insurance.....	.....	2	2
Loans.....	9	25	34
Money exchange.....	.....	2	2
Miscellaneous.....	203	731	934
Aliens in prison.....	16	.....	16
Assault.....	2	14	16
Deportation.....	8	49	57
Domestic relations.....	16	55	71
Disorderly houses.....	2	1	3
Exploitation.....	1	5	6
Extortion.....	4	8	12
Frauds.....	53	159	212
Interpreters.....	6	4	10
Larceny.....	4	35	39
Lost articles.....	13	40	53
Lost immigrants.....	4	9	13
Misleading advertisements.....	9	8	17
Partnership.....	6	8	14
Real estate.....	21	84	105
Relief.....	.....	3	3
White slavery.....	15	5	20
Other.....	23	244	267
Total.....	743	2,286	3,029

MATTERS REFERRED TO OTHER AUTHORITIES OR AGENCIES

REFERRED TO —	REQUESTS FOR ADVICE OR INFORMATION			Total
	Complaints	Verbal	Written	
Public authorities:				
Judicial.....	20	15	2	37
Executive:				
Federal.....	93	163	135	391
State.....	112	165	13	290
Local.....	210	63	10	283
Foreign.....	17	55	41	113
Total.....	452	461	201	1,114
Private agencies:				
Legal aid societies.....	811	142	44	997
Attorneys.....	107	34	56	197
Receivers in bankruptcy.....	89	20	5	114
Philanthropic or charitable organisations.....	76	37	37	150
Other.....	9	63	4	76
Total.....	1,092	296	146	1,534
Grand total.....	1,544	757	347	2,648

LICENSING OF LODGING HOUSES

Licenses issued.....	232
Fees collected.....	\$2,500
Inspections of:	
Licensed houses.....	487
Exempt houses.....	507
Other.....	136
Total.....	1,130
Rate cards filed.....	1,680

Part VII

**LAWS, RULES AND REGULATIONS RELATING TO
LABOR IN FORCE JANUARY 1, 1915**

COMPILED BY THE BUREAU OF STATISTICS AND INFORMATION

[*1]

INTRODUCTORY NOTE

In this compilation are included all the laws in force concerning labor with amendments to and including 1914. The laws are arranged in two general groups. Of first importance, of course, are the general Labor Law and the Industrial Code and these, together with the Penal Law provisions concerning their violation, make up the first group. In addition there is a large number of laws which also directly or indirectly affect labor and these are given, classified by subjects, in the second group.

The texts are given as in the Consolidated Laws of 1909 and succeeding years, as amended. References are given to all such amendments. For references to the sources, both original acts and amendments, of the various provisions as enacted in the Consolidated Laws, see a similar compilation in the Annual Report of the Commissioner of Labor for 1909 (Appendix VI).

In notes are given cross references to laws, and references to court decisions or opinions of the Attorney-General construing the laws. The latter may be found in the reports of the Attorney-General or in the reports of the Commissioner of Labor for the years indicated.

CONTENTS

THE LABOR LAW AND INDUSTRIAL CODE

THE "LABOR LAW" (Chapter 31 of the Consolidated Laws):	PAGE
1. Short title; definitions (§§ 1-2).....	7
2. General provisions (§§ 3-22).....	8
3. Department of labor (§§ 40-48).....	22
3-A. Industrial board (§§ 50-52).....	24
4. Bureau of inspection (§§ 53-61).....	26
5. Bureau of statistics and information (§§ 62-65).....	31
5-A. Bureau of employment (§§ 66-66-p).....	33
6. Factories (§§ 69-99-a).....	36
7. Tenement-made articles (§§ 100-106).....	73
8. Bakeries and confectioneries (§§ 110-117).....	78
9. Mines, tunnels and quarries and their inspection (§§ 119-136).....	83
10. Bureau of mediation and arbitration (§§ 140-148).....	96
11. Bureau of industries and immigration (§§ 151-156-a).....	98
12. Employment of women and children in mercantile establishments (§§ 160-173).....	103
13. Convict-made goods and duties of commissioner of labor relative thereto (§§ 190-195).....	113
14. Employer's liability (§§ 200-212).....	115
15. Employment of children in street trades (§§ 220-227).....	122
16. Laws repealed; when to take effect (§§ 240-241).....	125

THE INDUSTRIAL CODE:

Employment of women in canneries.....	128
Enclosure of factory stairways.....	128
Storage of combustible material about factory stairways.....	129
Sanitation of cannery labor camps.....	129
Sanitary code for bakeries and confectioneries.....	135
Fire alarm signal systems of factories.....	141
Existing fire escapes of factories.....	149
Factory elevators and hoistways.....	149
Fireproof and fire-resisting material—factory construction and tests.....	156

PENALTIES FOR VIOLATION OF THE LABOR LAW AND INDUSTRIAL CODE..... 169

OTHER LAWS RELATING TO LABOR

CHILD LABOR:

Educational restrictions.....	172
Certain employments of children prohibited.....	178
Taking apprentice without guardian's consent.....	181
Payment of wages to minors.....	181

HOURS OF LABOR:	PAGE
Drug clerks.....	182
Public holidays.....	182
Sunday labor.....	183
Vacations of public employees.....	184
 DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES (<i>See also Article 14 of Labor Law above</i>):	
Constitutional provision for health, safety and compensation of employees	185
Workmen's compensation law.....	185
Liability of railway companies for injuries to employees.....	211
Damages for injuries causing death.....	212
Criminal liability for negligence.....	212
Employees not to dispose of materials furnished.....	213
Corrupt influencing of agents, employees or servants.....	213
 POLITICAL AND LEGAL RIGHTS AND PRIVILEGES OF WORKINGMEN:	
Allowing time for employees to vote.....	215
Prohibiting coercion of voters by employers.....	215
Attachment of tools and garnishment of wages.....	216
Taking security for usurious loans.....	218
Assignment of wages.....	218
Ordinary exemptions not valid against debts for wages.....	222
Making employees preferred creditors.....	223
Liability of stockholders for wage debts.....	223
Making railroad corporations liable for wages due employees of contractors..	224
Exempting certain employees from paying costs in suits for wages.....	224
Married woman's right of action for wages.....	225
 PUBLIC WORK AND PUBLIC CONTRACTS:	
Empowering the Legislature to regulate the conditions of employment on public work.....	227
Laborers employed in the state service.....	227
Semi-monthly payment of wages to state employees.....	227
Labor on state buildings or plants.....	228
Fixing the compensation of employees of state prisons.....	228
Fixing the compensation of employees of state armories.....	228
Registration of laborers for municipal employment.....	229
Assignment of earnings by municipal employees.....	
Fixing the compensation of employees of the street cleaning department in New York City.....	230
Relief and pension fund for New York City street cleaners.....	231
Prohibiting the sub-letting of public contracts.....	236
Securing the payment of wages to employees of contractors upon canals....	237
Authorizing the eight-hour day on reservoir construction in New York City.	237
 PRISON LABOR:	
Occupation and employment of convicts.....	238
Employment of prisoners in county jails.....	243
Employment of prisoners in New York City prisons.....	244

CONTENTS

* 5

AGRICULTURAL LABOR:	PAGE
Providing for statistics of agricultural employment.....	246
RAILWAY LABOR:	
Safety of railway employees.....	247
Full crew law.....	251
Requiring the enclosure of street-car platforms.....	252
Qualifications of engineers and telegraphers.....	253
Qualifications of street railway conductors, motormen, etc.....	253
Employment of intemperate persons on railways and steamboats.....	254
Misconduct of employees of elevated railroads.....	254
Regulating the wearing of uniforms and badges.....	255
Conductors and trainmen as special policemen.....	255
Providing for bail of railway employees in case of accident.....	256
Unclaimed articles found in public vehicles to be sold for benefit of employees' association.....	257
Free transportation or reduced rates for employees.....	257
Complaints to public service commissions.....	259
INDUSTRIAL EDUCATION:	
The apprentice system.....	261
Industrial training in the public schools.....	264
Schools in labor camps.....	268
Free lectures for working people.....	269
LICENSING OF TRADES:	
Licensing of engineers and pilots of vessels.....	271
Licensing of chauffeurs.....	271
Licensing of moving-picture machine operators.....	273
Licensing of engineers and inspection of boilers in New York City.....	275
Licensing of stationary firemen in New York City.....	278
TRADE UNIONS:	
Action by or against an unincorporated association.....	279
Authorising the incorporation of labor organisations.....	280
Authorising labor unions to maintain or construct halls, etc.....	280
Forbidding labor unions to discriminate against members of the national guard.....	282
Preventing fraudulent representation in labor organisations.....	282
Unauthorized use of badges, titles, etc.....	282
Forbidding employers to coerce employees in regard to membership in labor unions.....	283
Making it unlawful to bribe representatives of labor unions.....	283
INDUSTRIAL DISPUTES:	
The right to strike; intimidation; picketing; boycotting; blacklisting; exclusive or "union shop" agreements.....	284
Conspiracy, intimidation, extortion, etc.....	285
Anti-Pinkerton law.....	288

REGULATION OF EMPLOYMENT AGENCIES, BOARDING HOUSES, ETC.:	PAGE
Employment agencies in cities.....	289
Sailors' boarding-houses to be licensed.....	299
INDEX.....	304

THE LABOR LAW

CHAPTER 36 OF THE LAWS OF 1909, CONSTITUTING CHAPTER 31 OF THE CONSOLIDATED LAWS, AS AMENDED

LABOR LAW

- Article**
1. Short title; definitions (§§ 1-2).
 2. General provisions (§§ 3-22).
 3. Department of labor (§§ 40-48).
 - 3-A. Industrial board (§§ 50-52).
 4. Bureau of inspection (§§ 53-61).
 5. Bureau of statistics and information (§§ 62-65).
 - 5-A. Bureau of employment (§§ 66-66-p).
 6. Factories (§§ 69-99-a).
 7. Tenement-made articles (§§ 100-106).
 8. Bakeries and confectioneries (§§ 110-117).
 9. Mines, tunnels and quarries and their inspection (§§ 119-136).
 10. Bureau of mediation and arbitration (§§ 140-148).
 11. Bureau of industries and immigration (§§ 151-156-a).
 12. Employment of women and children in mercantile establishments (§§ 160-173).
 13. Convict-made goods and duties of commissioner of labor relative thereto (§§ 190-195).
 14. Employer's liability (§§ 200-212).
 15. Employment of children in street trades (§§ 220-227).
 16. Laws repealed; when to take effect (§§ 240-241).

ARTICLE 1

Short Title; Definitions

- Section**
1. Short title.
 2. Definitions.

§ 1. Short title.— This chapter shall be known as the "Labor Law."

§ 2. Definitions.— Employee. The term "employee," when used in this chapter, means a mechanic, workingman or laborer who works for another for hire.

Employer. The term "employer," when used in this chapter, means the person employing any such mechanic, workingman or laborer, whether the owner, proprietor, agent, superintendent, foreman or other subordinate.

Factory; work for a factory. The term "factory", when used in this chapter, shall be construed to include any mill, workshop, or other manufacturing or business establishment and all buildings, sheds, structures or other places used for or in connection therewith, where one or more persons are employed at labor, except power houses, generating plants, barns, storage houses, sheds and other structures owned or operated by a public service corporation, other than construction or repair shops, subject to the jurisdiction of the public service commission under the public service commissions law. Work shall be deemed to be done for a factory within the meaning of this chapter whenever it is done at any place, upon the work of a factory or upon any of the materials entering into the product of the factory, whether

under contract or arrangement with any person in charge of or connected with such factory directly or indirectly through the instrumentality of one or more contractors or other third persons.

Factory building. The term "factory building," when used in this chapter, means any building, shed or structure which, or any part of which, is occupied by or used for a factory.

Mercantile establishment. The term "mercantile establishment," when used in this chapter, means any place where goods, wares or merchandise are offered for sale.

Tenement house. The term "tenement house," when used in this chapter, means any house or building, or portion thereof, which is either rented, leased, let or hired out, to be occupied, or is occupied in whole or in part as the home or residence of three families or more living independently of each other and doing their cooking upon the premises, and includes apartment houses, flat houses and all other houses so occupied, and for the purposes of this chapter shall be construed to include any building on the same lot with any such tenement house and which is used for any of the purposes specified in section one hundred of this chapter.

Whenever, in this chapter, authority is conferred upon the commissioner of labor, it shall also be deemed to include his deputies or a deputy acting under his direction. [*As am'd by L. 1913, ch. 529; and L. 1914, ch. 512.*]

"Tenant factory" is defined in § 94, *post*. The definition of "tenement house" here differs slightly from that in the Tenement House Law, ch. 61 of the Consolidated Laws, § 2.

The term "employer" includes the officers, agents and employees of municipalities: Opinion of Attorney-General, September 20, 1913.

Departments, maintained in department stores, clothing stores and millinery shops in which articles are made, are factories: Opinion of Attorney-General, May 23, 1913.

A commercial ice house using machinery, etc., is a "factory": *Rabe v. Consol. Ice Co.*, 151 U. S. C. C. A. 535 (1902). Bakeries and confectioneries are "factories": see § 111, *post*; also laundries, § 92, *post*.

A tugboat is not a "business establishment" within the meaning of the definition of a factory: *Shannahan v. Empire Engineering Corporation*, 204 N. Y. 548.

A retail butcher shop using an electric meat chopping machine is not a "factory": *O'Connor v. Webber*, 163 App. Div. 175.

ARTICLE 2

General Provisions

Section 3. Hours to constitute a day's work.

4. Violations of the labor law.
5. Hours of labor in brickyards.
6. Hours of labor on street surface and elevated railroads.
7. Regulation of hours of labor on steam surface and other railroads.
8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.
- 8-a. One day of rest in seven.
9. Payment of wages by receivers.
10. Cash payment of wages.
11. When wages are to be paid.
12. Penalty for violation of preceding section.
13. Assignment of future wages.
14. Preference in employment of persons upon public works.
15. Labels, brands and marks used by labor organizations.

Section 16. Illegal use of labels, brands and marks, a misdemeanor; injunction proceedings.

17. Seats for female employees.
18. Scaffolding for use of employees.
19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.
20. Protection of persons employed on buildings in cities.
- 20-a. Accidents to be reported.
- 20-b. Protection of employees.
- 20-b. Switchboards to be protected.
21. Commissioner of labor to enforce provisions of article.
22. Duties relative to apprentices.
22. Physical examination of employees.
24. Contributions to benefit or insurance fund.

§ 3. Hours to constitute a day's work.—Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law. This section does not prevent an agreement for over work at an increased compensation except upon work by or for the state or a municipal corporation, or by contractors or subcontractors therewith. Each contract to which the state or a municipal corporation or a commission appointed pursuant to law is a party which may involve the employment of laborers, workmen or mechanics shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day except in cases of extraordinary emergency caused by fire, flood or danger to life or property. The wages to be paid for a legal day's work as hereinbefore defined to all classes of such laborers, workmen or mechanics upon all such public works, or upon any material to be used upon or in connection therewith, shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used* [; nor in any case, less than two dollars per day if such laborers, workmen or mechanics are employed upon, about or in connection with the canals of the state, or in the construction, enlargement or improvement of canals]. Each such contract hereafter made shall contain a stipulation that each such laborer, workman or mechanic, employed by such contractor, subcontractor or other person on, about or upon such public work, shall receive such wages herein provided for. Each contract for such public work hereafter made shall contain a provision that the same shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of this section; and no such person or corporation shall be entitled to receive any sum nor shall any officer, agent or employee of the state or of a municipal corporation pay the same or authorize its payment from the funds under his charge or control to any such person or corporation for work done upon any contract, which in its form or manner

* The clause in brackets was inserted by L. 1913, ch. 487, approved May 9, but was not included in the amendment made by L. 1913, ch. 494, approved May 14. An opinion of the Attorney-General rendered to the State Engineer, dated June 3, holds that chapter 494 being enacted later, and not containing the change made by chapter 487, virtually repeals the latter.

of performance violates the provisions of this section, but nothing in this section shall be construed to apply to stationary firemen in state hospitals nor to other persons regularly employed in state institutions, except mechanics, nor shall it apply to engineers, electricians and elevator men in the department of public buildings during the annual session of the legislature, nor to the construction, maintenance and repair of highways outside the limits of cities and villages. [*As am'd by L. 1909, ch. 292; L. 1913, ch. 467, and L. 1913, ch. 494.*]

The Legislature is expressly empowered to regulate conditions of employment on public work by the State Constitution, Article XII, § 1, p. 227, *post*.

The constitutionality of the section was sustained in 1904, so far as it relates to the *direct* employees of the state or of a municipality: *Ryan v. City of New York*, 177 N. Y. 271. The section is constitutional under both State and Federal constitutions: *People ex rel. Williams Engineering and Contracting Co. v. Metz*, 193 N. Y. 148 (1908). The United States Supreme Court has affirmed the constitutionality of a similar statute of Kansas: *Atkins v. Kansas*, 191 U. S. 207, and the eight-hour law of the United States: *Ellis v. U. S.*, 27 Sup. Ct. Rep. p. 600, 1907.

The section applies only to *public work* and not to "articles of common merchandise," or to "marketable commodities," like gas and electricity: *Downey v. Bender*, 57 App. Div. 310 (1901); see also the Attorney-General's opinion of June 26, 1906. The section does not apply to the manufacture of materials purchased by a contractor for public work: *Bohnen v. Metz*, 126 App. Div. 807, affirmed, 193 N. Y. 676; nor to work done under supervision of a municipal commission: *People ex rel. N. Y., B. & M. R. R. Co. & L. I. R. R. Co. v. Prendergast*, 209 N. Y. 92. But the section does apply to the manufacture of articles to be used on public work when such articles are manufactured in the contractor's own factory: Opinion of Attorney-General as to manufacture of fire escapes, April 23, 1909; as to manufacture of wood work, February 14, 1913.

An armory is a state "institution" and therefore exempt from the provisions of the section: *Matter of Burns v. Fox*, 98 App. Div. 507 (Nov. 1904). Firemen are not "employees" within the meaning of the statute, which relates only to *mechanics or laborers* working for hire: *Sweeney v. Sturgis*, 78 App. Div. 460, affirmed (May, 1903) 175 N. Y. 8. The wages clause does not apply to school janitors: *Farrell v. Board of Education*, 113 App. Div. 405. The clause may apply to them, however, where special laws, instead of the general education law, govern the educational system: Opinion of Attorney-General, February 7, 1913.

The section does not apply to printers regularly employed in a state hospital: Opinion of Attorney-General, March 8, 1912; nor to employees in nurseries maintained by the State Conservation Commission: Opinion of Attorney-General, April 18, 1912; nor to work done in connection with the construction and maintenance of bridges upon highways outside the limits of cities and villages: Opinion of Attorney-General, May 6, 1912. The section applies, however, to the work of repair and preparation in winter by contractors engaged on barge canal work: Opinion of Attorney-General, February 1, 1911.

A municipality making payment to a contractor knowingly in disobedience of the eight-hour requirement is not entitled to be credited with such payment: *Village of Medina v. Dingleline*, 211 N. Y. 24. A contractor bidding for work on a ten-hour basis is not entitled to compensation for increased expense due to enforced compliance with the eight-hour provision: *Sundstrom v. State of New York*, 159 App. Div. 241.

Relative to the terms "locality" and "prevailing rate of wages" in particular cases, see Opinions of Attorney-General, February 27, 1912, and November 20, 1914.

Since the section permits work in excess of eight hours "in cases of extraordinary emergency," violation must be affirmatively alleged: *Molloy v. Village of Briarcliff Manor*, 158 App. Div. 456. "Extraordinary emergency" is defined in *United States v. Sheridan Kirk Contract Co.*, U. S. Dist. Court, 149 Fed. Rep. 818; *Penn Bridge Co. v. United States*, Court of Appeals of D. C., 35 Wash. Law Reporter, 287. As to what constitutes overtime in case of emergency work, see,

on part of employees of municipal department of water supply, *Grady v. City of New York*, 182 N. Y. 18 (May 30, 1905) and, on part of employees of state hospital, Opinion of Attorney-General, November 20, 1914. The commissioner of labor is not empowered to issue permits for emergency work: Opinion of Attorney-General, June 8, 1911.

The section does not apply to work done out of the state for a New York contractor: *Ewen v. Thompson-Starrett Co.*, 208 N. Y. 245 (1913).

A city employee may waive his right to the prevailing rate of wages: *Ryan v. City of New York*, 177 N. Y. 271; *Byrnes v. City of New York*, 150 App. Div. 338.

A general contractor is not liable for violation of the section by a subcontractor when evidence does not show that violation was required or permitted by the general contractor or even occurred with his knowledge or consent: *McFarlane v. Mosler & Summers*, 157 App. Div. 844.

§ 4. Violations of the labor law.—Any officer, agent or employee of this state or of a municipal corporation therein having a duty to act in the premises who violates, evades or knowingly permits the violation or evasion of any of the provisions of this chapter shall be guilty of malfeasance in office and shall be suspended or removed by the authority having power to appoint or remove such officer, agent or employee; otherwise by the governor. Any citizen of this state may maintain proceedings for the suspension or removal of such officer, agent or employee or may maintain an action for the purpose of securing the cancellation or avoidance of any contract which by its terms or manner of performance violates this chapter or for the purpose of preventing any officer, agent or employee of such municipal corporation from paying or authorizing the payment of any public money for work done thereupon.

See notes to § 3, *ante*; § 21, *post*; Penal Law, § 1271, subd. 1, p. 170, *post*.

§ 5. Hours of labor in brickyards.—Ten hours, exclusive of the necessary time for meals, shall constitute a legal day's work in the making of brick in brickyards owned or operated by corporations. No corporation owning or operating such brickyard shall require employees to work more than ten hours in any one day, or to commence work before seven o'clock in the morning. But overwork and work prior to seven o'clock in the morning for extra compensation may be performed by agreement between employer and employee.

Violation a misdemeanor: Penal Law, § 1271, subd. 3, p. 170, *post*.

§ 6. Hours of labor on street surface and elevated railroads.—Ten consecutive hours' labor, including one-half hour for dinner, shall constitute a day's labor in the operation of all street surface and elevated railroads, of whatever motive power, owned or operated by corporations in this state, whose main line of travel or whose routes lie principally within the corporate limits of cities of the first and second class. No employee of any such corporation shall be permitted or allowed to work more than ten consecutive hours, including one-half hour for dinner, in any one day of twenty-four hours.

In cases of accident or unavoidable delay, extra labor may be performed for extra compensation.

Violation a misdemeanor: Penal Law, § 1271, subd. 2; § 1275, pp. 170, 171, *post*. Under former law, violation was not a crime: *People v. Phye*, 10 Crim. 246.

§ 7. Regulation of hours of labor on steam surface and other railroads.—Ten hours' labor, performed within twelve consecutive hours, shall con-

stitute a legal day's labor in the operation of steam surface, electric, subway and elevated railroads operated within this state, except where the mileage system of running trains is in operation. No person or corporation operating any such railroad of thirty miles in length, or over, in whole or in part within this state, shall permit or require any conductor, engineer, fireman, trainman, motorman or assistant motorman, engaged in or connected with the movement of any train on any such railroad, to be or remain on duty for a longer period than sixteen consecutive hours, and whenever any such conductor, engineer, fireman, trainman, motorman or assistant motorman shall have been continuously on duty for sixteen hours he shall be relieved and not required or permitted again to go on duty until he has had at least ten consecutive hours off duty, and no such conductor, engineer, fireman, trainman, motorman or assistant motorman who has been on duty sixteen hours in the aggregate in any twenty-four hour period shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty, except when by casualty occurring after he has started on his trip, and except when by accident or unexpected delay of trains scheduled to make connection with the train on which he is serving, he is prevented from reaching his terminal. The commissioner of labor shall appoint a sufficient number of inspectors to enforce the provisions of this section. [*As am'd by L. 1913, ch. 462.*]

Violation a misdemeanor: Penal Law, § 1271, subd. 4, p. 170, *post*; also evidence of negligence in action for personal injuries sustained by employee, *Pellin v. N. Y. C. & H. R. R. Co.*, 102 App. Div. 71 (1905).

§ 8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.—The provisions of section seven of this chapter shall not be applicable to employees mentioned herein. It shall be unlawful for any corporation or receiver, operating a line of railroad, either surface, subway or elevated, in whole or in part in the state of New York, or any officer, agent or representative of such corporation or receiver to require or permit any telegraph or telephone operator who spaces trains by the use of the telegraph or telephone under what is known and termed the "block system" (defined as follows): Reporting trains to another office or offices or to a train dispatcher operating one or more trains under signals, and telegraph or telephone levermen who manipulate interlocking machines in railroad yards or on main tracks out on the lines or train dispatchers in its service whose duties substantially, as hereinbefore set forth, pertain to the movement of cars, engines or trains on its railroad by the use of the telegraph or telephone in dispatching or reporting trains or receiving or transmitting train orders as interpreted in this section, to be on duty for more than eight hours in a day of twenty-four hours, and it is hereby declared that eight hours shall constitute a day of employment for all laborers or employees engaged in the kind of labor aforesaid; except in cases of extraordinary emergency caused by accident, fire, flood or danger to life or property, and for each hour of labor so performed in any one day in excess of such eight hours, by any such employee, he shall be paid in addition at least one-eighth of his daily compensation. Any person who is employed as signalman, towerman, gateman, telegraph or telephone operator in a railroad signal tower or public railroad station to receive or transmit a telegraphic or tele-

phonic message or train order for the movement of trains and who works eight hours or more in any twenty-four each and every day continuously, and all gatemen so employed must have at least two days of twenty-four hours each in every calendar month for rest with the regular compensation; subject to the foregoing provisions relating to extra service in cases of emergency. Any person or persons, company or corporation, who shall violate any of the provisions of this section, shall, on conviction, be fined in the sum of not less than one hundred dollars, and such fine shall be recovered by an action in the name of the state of New York, for the use of the state, which shall sue for it against such person, corporation or association violating this section, said suit to be instituted in any court in this state having appropriate jurisdiction. Such fine, when recovered as aforesaid, shall be paid without any deduction whatever, one-half thereof to the informer, and the balance thereof to be paid into the free school fund of the state of New York. The provisions of this section shall not apply to any part of a railroad where not more than eight regular passenger trains in twenty-four hours pass each way; provided, moreover, that where twenty freight trains pass each way generally in each twenty-four hours then the provisions of this section shall apply, notwithstanding that there may pass a less number of passenger trains than hereinbefore set forth, namely eight. [As am'd by L. 1913, ch. 466.]

The section is unconstitutional as concerns interstate commerce because it conflicts with the U. S. law on the same subject. The U. S. Supreme Court has so decided relative to the eight-hour provision: *Erie R. R. Co., v. New York*, 233 U. S. 671. The Appellate Division, citing the U. S. Supreme Court case, has so decided relative to the days of rest provision: *People v. N. Y. C. & H. R. R. Co.*, 163 App. Div. 79.

Violation of the section subjects the offender to a civil action for recovery of the penalty and also to criminal prosecution under § 1275, Penal Law.

The eight-hour clause does not apply to conductors and engineers temporarily acting as telephone operators in the movement of trains: Opinion of Attorney-General, March 26, 1912; nor does it apply to towermen who control the movement of trains by means of levers: Opinion of Attorney-General, August 14, 1913.

§ 8-a. One day of rest in seven.—(1) Every employer of labor engaged in carrying on any factory or mercantile establishment in this state shall allow every person, except those specified in subdivision two, employed in such factory or mercantile establishment at least twenty-four consecutive hours of rest in every seven consecutive days. No employer shall operate any such factory or mercantile establishment on Sunday unless he shall have complied with subdivision three. Provided, however, that this section shall not authorize any work on Sunday not now or hereafter authorized by law.

2. This section shall not apply to

(a) Janitors;

(b) Watchmen;

(c) Employees whose duties include not more than three hours' work on Sunday in (1) setting sponges in bakeries; (2) caring for live animals; (3) maintaining fires; (4) necessary repairs to boilers or machinery;

(d) Superintendents or foremen in charge.

(e) Employees, if the commissioner of labor in his discretion approves, engaged in the work of any industrial or manufacturing process necessarily

continuous, in which no employee is permitted to work more than eight hours in any calendar day. [*Par. (e) added by L. 1914, ch. 396.*]

A "process necessarily continuous" is one conducted twenty-four hours every day. The commissioner of labor can grant exemption to some employees and refuse it to others: Opinion of Attorney-General, April 27, 1914.

(f) Employees in dairies, creameries, milk condensaries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed. [*Par. (f) added by L. 1914, ch. 388.*]

3. Before operating on Sunday, every employer shall post in a conspicuous place on the premises a schedule containing a list of his employees who are required or allowed to work on Sunday and designating the day of rest for each, and shall file a copy of such schedule with the commissioner of labor. The employer shall promptly file with the said commissioner a copy of every change in such schedule. No employee shall be required or allowed to work on the day of rest so designated for him.

4. Every employer shall keep a time-book showing the names and addresses of all employees and the hours worked by each of them in each day, and such time-book shall be open to inspection by the commissioner of labor.

5. The industrial board at any time when the preservation of property, life or health requires, may except specific cases for specified periods from the provisions of this act by written orders which shall be recorded as public records. [*Section 8-a added by L. 1913, ch. 740.*]

See section 2 and notes thereon as to the meaning of the terms "employee," "employer," "factory" and "mercantile establishment."

Rulings on the section are given in opinions of the Attorney-General of September 29, October 6 and 15, November 15 and December 6, 1913 (Report of Commissioner of Labor, 1913, pp. *275-282) and opinion of May 5, 1914; it applies to gas and electric plants whether owned privately or municipally, but does not apply to water pumping stations; it does not apply to pharmacies or drug stores, to telegraph and telephone companies (except employees working in shops), to railroads or street railways (except employees working in shops or on factory yard engines), to restaurants, lunch rooms or hotel dining-rooms, to cold storage plants (except ice-plant boiler and engine room employees), to farm work, or to chauffeurs.

The constitutionality of the section has been sustained, except as to paragraph e, by the Court of Appeals in *People v. Klinck Packing Co.*, 214 N. Y. 121.

§ 9. Payment of wages by receivers.—Upon the appointment of a receiver of a partnership or of a corporation organized under the laws of this state and doing business therein, other than a moneyed corporation, the wages of the employees of such partnership or corporation shall be preferred to every other debt or claim.

See also Debtor and Creditor Law, ch. 12 of the Consolidated Laws, §§ 22, 23, as amended and renumbered by L. 1914, ch. 360, and Lien Law, § 13.

Term "employees" includes operatives and laborers: *Palmer v. Van Santvoord*, 153 N. Y. 612; traveling salesmen: *Matter of Fitzgerald*, 21 Misc. 226; book-keepers employed at salary of \$100 a month: *People v. Beveridge Brewing Co.*, 91 Hun 313, and *Matter of Luxton & Black Co.*, 35 App. Div. 243, etc.

Term "wages" does not cover amounts credited to employees under a system of profit sharing: *Dolge v. Dolge*, 70 App. Div. 517.

§ 10. Cash payment of wages.—Every manufacturing, mining, quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone company, every express company, every corporation engaged in har-

vesting and storing ice, and every water company, not municipal, and every person, firm or corporation, engaged in or upon any public work for the state or municipal corporation thereof, either as a contractor or a subcontractor therewith, shall pay to each employee engaged in his, their or its business the wages earned by such employee in cash. No such company, person, firm or corporation shall hereafter pay such employees in scrip, commonly known as store money-orders. No person, firm or corporation engaged in carrying on public work under contract with the state or with any municipal corporation of the state, either as a contractor or subcontractor therewith, shall, directly or indirectly, conduct or carry on what is commonly known as a company store, if there shall, at the time, be any store selling supplies within two miles of the place where such contract is being executed. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

Penalty: See § 12, *post*, and Penal Law, § 1272, p. 170, *post*.

On subject of constitutionality, see *Knoxville Iron Co. v. Harbison*, 183 U. S. 13, in which the United States Supreme Court sustained the Tennessee anti-truck law.

Payment by check is not a compliance with the section: Opinion of Attorney-General in his report for 1899, p. 335.

The section prohibits deductions for rent or other charges (Letter of Attorney-General, December 31, 1914).

§ 11. When wages are to be paid.—Every corporation or joint-stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment.

But every person or corporation operating a steam surface railroad shall, on or before the first day of each month, pay the employees thereof the wages earned by them during the first half of the preceding month ending with the fifteenth day thereof, and on or before the fifteenth day of each month pay the employees thereof the wages earned by them during the last half of the preceding calendar month.

Penalty: See § 12, *post*, and Penal Law, § 1272, p. 170, *post*.

The semi-monthly pay law in the second paragraph of this section is constitutional as a valid exercise of the police power and of the reserved control of the state over corporate charters and as not directly burdensome on interstate commerce: *Erie R. R. Co. v. Williams*, 233 U. S. 685; *N. Y. C. R. R. Co. v. Williams*, 190 N. Y. 108.

Any corporation operating a steam surface railroad and also engaged in mining or any other business than the operation of such surface railroad must pay its employees not engaged in operating such road in accordance with the general provisions of this section: Opinion of Attorney-General, June 4, 1906. Does not apply to a municipal corporation: *People ex rel. Van Valkenburg v. Myers*, 33 N. Y. St. Rep. 18; *People v. City of Buffalo*, 57 Hun 577.

The section applies to foreign corporations doing business in this state. Clerks, stenographers, salesmen and draftsmen are "employees" receiving "wages": Opinion of Attorney-General, December 12, 1912; applies to a corporation which has entered into a partnership with individuals: Opinion of Attorney-General, April 16, 1918.

A contract that employees shall forfeit one week's wages in case they leave employer without stipulated notice is illegal: Opinion of Attorney-General, March 8, 1913.

§ 12. Penalty for violation of preceding section.—If a corporation or joint-stock association, its lessee or other person carrying on the business thereof,

shall fail to pay the wages of all its employees as provided in this article, it shall forfeit to the people of the state the sum of fifty dollars for each such failure, to be recovered by the commissioner of labor in his name of office in a civil action. [*As am'd by L. 1909, ch. 206.*]

Violation also a misdemeanor: Penal Law, § 1272, p. 170, *post*.

§ 13. **Assignment of future wages.**—No assignment of future wages, payable weekly, or monthly in case of a steam surface railroad corporation, shall be valid if made to the corporation or association from which such wages are to become due, or to any person on its behalf, or if made or procured to be made to any person for the purpose of relieving such corporation or association from the obligation to pay weekly, or monthly in case of a steam surface railroad corporation. Charges for groceries, provisions or clothing shall not be a valid off-set for wages in behalf of any such corporation or association. No such corporation or association shall require any agreement from any employee to accept wages at other periods than as provided in this article as a condition of employment.

See Personal Property Law, § 42, and law relative to small loans, pp. 218-222, *post*.

A contract that part of the wages shall be withheld weekly until the end of the month is illegal: Opinion of Attorney-General, September 18, 1913.

§ 14. **Preference in employment of persons upon public works.**—In the construction of public works by the state or a municipality, or by persons contracting with the state or such municipality, only citizens of the United States shall be employed; and in all cases where laborers are employed on any such public works, preference shall be given citizens of the state of New York. In each contract for the construction of public works a provision shall be inserted, to the effect that, if the provisions of this section are not complied with, the contract shall be void. All boards, officers, agents or employees of cities of the first class of the state, having the power to enter into contracts which provide for the expenditure of public money on public works, shall file in the office of the commissioner of labor the names and addresses of all contractors holding contracts with said cities of the state. Upon the letting of new contracts the names and addresses of such new contractors shall likewise be filed. Upon the demand of the commissioner of labor a contractor shall furnish a list of the names and addresses of all subcontractors in his employ. Each contractor performing work for any city of the first class shall keep a list of his employees, in which it shall be set forth whether they are naturalized or native born citizens of the United States, together with, in case of naturalization, the date of naturalization and the name of the court where such naturalization was granted. Such lists and records shall be open to the inspection of the commissioner of labor. A violation of this section shall constitute a misdemeanor and shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment.

The statute of 1894 making it a crime for a contractor with a municipal corporation for the construction of public works, to employ alien laborers thereon, was held in 1895 to be an unconstitutional invasion of personal rights and also a violation of a treaty of the United States with Italy: *People v. Warren*, 13 Misc. 615. The present section was held to be constitutional: *People v. Crane*, 214 N. Y. 154.

As to the preference clause, see *City of Chicago v. Huribut*, 68 N. E. 786 (1903); but Massachusetts enacted a law giving preference to resident labor in 1904 (ch. 311).

§ 15. Labels, brands and marks used by labor organizations.—A union or association of employees may adopt a device in the form of a label, brand, mark, name or other character for the purpose of designating the products of the labor of the members thereof. Duplicate copies of such device shall be filed in the office of the secretary of state, who shall, under his hand and seal, deliver to the union or association filing or registering the same a certified copy and a certificate of the filing thereof, for which he shall be entitled to a fee of one dollar. Such certificate shall not be assignable by the union or association to whom it is issued.

This act is constitutional and the infringement of a registered label will be restrained by injunction: *Perkins v. Heert*, 158 N. Y. 306.

§ 16. Illegal use of labels, brands and marks a misdemeanor; injunction proceedings.—A person who (1) shall in any way use or display the label, brand, mark, name or other character, adopted by any such union or association as provided in the preceding section, without the consent or authority of such union or association; or (2) shall counterfeit or imitate any such label, brand, mark, name or other character, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of, any goods, wares, merchandise or other products of labor, upon which any such counterfeit or imitation is attached, affixed, printed, stamped or impressed, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of any goods, wares, merchandise or other products of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, is guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment. After filing copies of such device, such union or association may also maintain an action to enjoin the manufacture, use, display or sale of counterfeit or colorable imitations of such device, or of goods bearing the same, or the unauthorized use or display of such device, or of goods bearing the same, and the court may restrain such wrongful manufacture, use, display or sale, and every unauthorized use or display by others of the genuine devices so registered and filed, if such use or display is not authorized by the owner thereof, and may award to the plaintiff such damages resulting from such wrongful manufacture, use, display or sale as may be proved, together with the profits derived therefrom.

Knowledge or intent is not an ingredient of an offense of counterfeiting a registered label: *Bulena v. Newman*, 10 Misc. 460. A colorable imitation of a union label, even though it have distinguishing words or names, contravenes this section: *Myrup v. Friedman*, 58 Misc. 323.

§ 17. Seats for female employees.—Every person employing females in a factory or as waitresses in a hotel or restaurant shall provide and maintain suitable seats, with proper backs where practicable, for the use of such female employees, and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health. Where females are engaged in work which can be properly performed in a sitting pos-

ture, suitable seats, with backs where practicable, shall be supplied in every factory for the use of all such female employees and permitted to be used at such work. The industrial board may determine when seats, with or without backs, are necessary and the number thereof. [*As am'd by L. 1913, ch. 197.*]
Cf. §§ 88, 170, *post*.

§ 18. Scaffolding for use of employees.—A person employing or directing another to perform labor of any kind in the erection, repairing, altering or painting of a house, building or structure shall not furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding, hoists, stays, ladders or other mechanical contrivances which are unsafe, unsuitable or improper, and which are not so constructed, placed and operated as to give proper protection to the life and limb of a person so employed or engaged.

Scaffolding or staging swung or suspended from an overhead support, or erected with stationary supports, more than twenty feet from the ground or floor, except scaffolding wholly within the interior of a building and which covers the entire floor space of any room therein, shall have a safety rail of suitable material, properly bolted, secured and braced, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, with such openings as may be necessary for the delivery of materials, and properly attached thereto, and such scaffolding or staging shall be so fastened as to prevent the same from swaying from the building or structure. [*As am'd by L. 1911, ch. 693.*]

Violation is a misdemeanor: Penal Law, § 1276, p. 171, *post*, and renders master liable in case of injury to employees: § 202, *post*.

The question of what constitutes a structure or a scaffold under this section is one to be decided according to the circumstances of each case and has led to numerous decisions. As to the general principles upon which these questions must be determined see *Caddy v. Interborough Rapid Transit Co.*, 195 N. Y. 415 (1909).

As to relative liability of contractor and sub-contractor see *Quigley v. Thatcher*, 207 N. Y. 66; *Bohnhoff v. Fischer*, 210 N. Y. 172; *Campbell v. McNulty Bros.*, 162 App. Div. 685.

An employer is liable for failure to equip the foot of a ladder with sharp spurs: *Shovan v. Lozler Motor Co.*, 158 App. Div. 487; and for failure to so place and operate a hoist as to protect employees from falling bricks or other falling material: *Coleman v. Ruggles-Robinson Co.*, 159 App. Div. 268.

§ 19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.—Whenever complaint is made to the commissioner of labor that the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons, or ropes of any swinging or stationary scaffolding used in the construction, alteration, repairing, painting, cleaning or pointing of buildings within the limits of a city are unsafe or liable to prove dangerous to the life or limb of any person, such commissioner of labor shall immediately cause an inspection to be made of such scaffolding, or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons or other parts connected therewith. If, after examination, such scaffolding or any of such parts is found to be dangerous to life or limb, the commissioner of labor shall prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. The

commissioner of labor or deputy factory inspector making the examination shall attach a certificate to the scaffolding, or the slings, hangers, irons, ropes, or other parts thereof, examined by him, stating that he has made such examination, and that he has found it safe or unsafe, as the case may be. If he declares it unsafe, he shall at once, in writing, notify the person responsible for its erection of the fact, and warn him against the use thereof. Such notice may be served personally upon the person responsible for its erection, or by conspicuously affixing it to the scaffolding, or the part thereof declared to be unsafe. After such notice has been so served or affixed, the person responsible therefor shall immediately remove such scaffolding or part thereof and alter or strengthen it in such manner as to render it safe, in the discretion of the officer who has examined it, or his superiors. The commissioner of labor and any of his deputies whose duty it is to examine or test any scaffolding or part thereof, as required by this section, shall have free access, at all reasonable hours, to any building or premises containing them or where they may be in use. All swinging and stationary scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom or placed thereon, when in use, and not more than four men shall be allowed on any swinging scaffolding at one time.

Violation is a misdemeanor: Penal Law, § 1276. p. 171, *post*; and renders master liable in case of injury to employees: § 202, *post*.

§ 20. Protection of persons employed on buildings in cities.—All contractors and owners, when constructing buildings in cities, where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fire-proof material or brickwork, shall complete the flooring or filling in as the building progresses. If the plans and specifications of such buildings do not require filling in between the beams of floors with brick or fire-proof material all contractors for work, in the course of construction, shall lay the underflooring thereof on each story as the building progresses. Where double floors are not to be used, such contractor shall keep planked over the floors two stories below the story where the work is being performed. If the floor beams are of iron or steel, the contractors for the iron or steel work of buildings in course of construction or the owners of such buildings shall thoroughly plank over the entire tier of iron or steel beams and extending not less than six feet beyond such beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work, and for the raising or lowering of materials to be used in the construction of such building, or such spaces as may be designated by the plans and specifications for stairways and elevator shafts. If elevators, elevating machines or hod-hoisting apparatus are used within a building in the course of construction, for the purpose of lifting materials to be used in such construction, the contractors or owners shall cause the shafts or openings in each floor to be inclosed or fenced in on all sides by a barrier at least eight feet in height, except on two sides which may be used for taking off and putting on materials, and those sides shall be guarded by an adjustable barrier not less than three nor more than four feet from the floor and not less than two feet from the edge of such shaft or opening. If a building in course of construction is five stories or more in height, no

lumber or timber needed for such construction shall be hoisted or lifted on the outside of such building. The chief officer, in any city, charged with the enforcement of the building laws of such city and the commissioner of labor are hereby charged with enforcing the provisions of this section and sections eighteen and nineteen, and said chief officer in any city charged with the enforcement of the building laws of such city shall have the same powers for the enforcement of these sections as are vested in the commissioner of labor. [*As am'd by L. 1911, ch. 693 and L. 1913, ch. 492.*]

Violation is a misdemeanor: Penal Law, § 1277, p. 171, *post*; and renders master liable in case of injury to employees: § 202, *post*.

As to relative liability of owner and contractor, see *a. g. Rooney v. Brogan Construction Co.*, 194 N. Y. 32 (1909).

As to liability of contractor hoisting material on outside of building five stories or more in height, in violation of this section, see *Bergquist v. Oregon Apartments Co. & Koch*, 161 App. Div. 210.

§ 20-a. Accidents to be reported.—The person in charge of any building, construction, excavating or engineering work of any description, including the work of repair, alteration, painting or renovating, shall keep a correct record of all deaths, accidents or injuries sustained by any person working thereon, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*Added by L. 1910, ch. 155.*]

Compare § 87, factory accidents, and § 126, mine and quarry accidents. Section 96 of the Workmen's Compensation Law, *post*, provides for the formation of accident prevention associations by employers and § 111 of said law requires employers to record and report details of accidents.

Section 20-a applies to house wrecking: Opinion of Attorney-General of May 17, 1911; also to maintenance of way on railroad work: Opinion of Attorney-General, January 10, 1913.

* § 20-b. Protection of employees.—All factories, factory buildings, mercantile establishments and other places to which this chapter is applicable, shall be so constructed, equipped, arranged, operated and conducted in all respects as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein. The industrial board shall, from time to time, make such rules and regulations as will carry into effect the provisions of this section. [*Added by L. 1913, ch. 145.*]

* § 20-b. Switchboards to be protected.—All buildings having installed therein a switchboard of two hundred and twenty volts or over shall have, on the floor or upon such platform or other standing place as the switchboard may be located or attached, a rubber mat the length of the switchboard

* As in original, both sections numbered 20-b.

and of sufficient width to allow a person to walk or stand thereon while working at the switchboard or making tests. [Added by L. 1913, ch. 543.]

§ 21. Commissioner of labor to enforce provisions of article.—The commissioner of labor shall enforce all the provisions of this article. He shall investigate complaints made to him of violations of such provisions and if he finds that such complaints are well founded he shall issue an order directed to the person or corporation complained of, requiring such person or corporation to comply with such provisions. If such order is disregarded the commissioner of labor shall present to the district attorney of the proper county all the facts ascertained by him in regard to the alleged violation, and all other papers, documents or evidence pertaining thereto, which he may have in his possession. The district attorney to whom such presentation is made shall proceed at once to prosecute the person or corporation for the violations complained of, pursuant to this chapter and the provisions of the penal law. If complaint is made to the commissioner of labor that any person contracting with the state or a municipal corporation for the performance of any public work fails to comply with or evades the provisions of this article respecting the payment of the prevailing rate of wages, the requirements of hours of labor or the employment of citizens of the United States or of the state of New York, the commissioner of labor shall if he finds such complaints to be well founded, present evidence of such non-compliance to the officer, department or board having charge of such work. Such officer, department or board shall thereupon take the proper proceedings to revoke the contract of the person failing to comply with or evading such provisions.

See §§ 3 and 4, *ante*; and Penal Law, § 1271, subd. 1, p. 170, *post*. The procedure of §§ 3, 4 and 21 of the Labor Law is exclusive of the provisions for criminal prosecutions of § 1271 of the Penal Law: Letter of Attorney-General, July 16, 1914.

The determination of the commissioner of labor as to a violation of the section by contractor is merely advisory to and not conclusive upon the municipality in question: *In re Keystone State Construction Co. v. Williams*, 152 App. Div. 575; *aff'd*, 207 N. Y. 767.

* § 22. Duties relative to apprentices.—The commissioner of labor shall enforce the provisions of the domestic relations law, relative to indenture of apprentices, and prosecute employers for failure to comply with the provisions of such indentures and of such law in relation thereto. [Renumbered by L. 1913, ch. 145, § 7; formerly § 67 of article 5.]

For the law concerning apprentices, here referred to, see pp. 261-264, *post*.

* § 22. Physical examination of employees.—Whenever an employer shall require a physical examination by a physician or surgeon as a condition of employment, the party to be examined, if a female, shall be entitled to have such examination before a physician or surgeon of her own sex. If an employer shall require or attempt to require a female applicant for employment to submit to an examination in violation of the provisions of this section, he shall be guilty of a misdemeanor. [Added by L. 1913, ch. 320.]

† § 24. Contributions to benefit or insurance fund.—A corporation engaged in the business of operating a mercantile establishment shall not by deduction

*As in original; both §§ numbered 22.

† Section 24 was added to article 1 by chapter 320 but should evidently be inserted here.

from salary, compensation or wages, by direct payment or otherwise, compel any employee in such mercantile establishment to contribute to a benefit or insurance fund maintained or managed for the employees of such establishment by such corporation, or by any other corporation or person; and every contract or agreement whereby such contribution is exacted shall be absolutely void. A corporation which will violate this section shall be liable to a penalty of one hundred dollars, recoverable by the person aggrieved in any court of competent jurisdiction. A director, officer or agent of a corporation who compels any employee to make a contribution in violation of this section, or sign any contract or agreement to make such contribution, or imposes or requires such a contribution as a condition of entering into or continuing in the employment of a mercantile establishment, shall be guilty of a misdemeanor. [*Added by L. 1914, ch. 320.*]

ARTICLE 3

Department of Labor

Section 40. Commissioner of labor.

41. Deputy commissioners.
42. Bureaus.
43. Powers.
44. Salaries and expenses.
45. Branch offices.
46. Reports.
47. Old records.
48. Counsel.

§ 40. Commissioner of labor.—There shall continue to be a department of labor, the head of which shall be the commissioner of labor, who shall be appointed by the governor by and with the consent of the senate, and who shall hold office for a term of four years beginning on the first day of January of the year in which he is appointed. He shall receive an annual salary of eight thousand dollars. He shall appoint and may remove all officers, clerks and other employees in the department of labor except as in this chapter otherwise provided. [*As am'd by L. 1911, ch. 729; and L. 1913, ch. 145.*]

§ 41. Deputy commissioners.—The commissioner of labor shall forthwith upon entering upon the duties of his office, appoint and may at pleasure remove two deputy commissioners of labor. The first deputy commissioner shall receive a salary of five thousand dollars a year; the second deputy commissioner shall receive a salary of four thousand five hundred dollars a year.

The first deputy commissioner shall, during the absence or disability of the commissioner of labor, possess all the powers and perform all the duties of the commissioner except the power of appointment and removal. During the absence or disability of both the commissioner of labor and the first deputy commissioner of labor, the second deputy commissioner shall possess all the powers and perform all the duties of the commissioner except the power of appointment and removal. In addition to their duties and powers as prescribed by the provisions of this chapter, the deputy commissioners of labor shall perform such other duties and possess such other powers as the

commissioner of labor may prescribe. [*As am'd by L. 1911, ch. 729; and L. 1913, ch. 145.*]

§ 42. **Bureaus.**—The department of labor shall have five bureaus as follows: inspection; statistics and information; employment; mediation and arbitration and industries and immigration. There shall be such other bureaus in the department of labor as the commissioner of labor may deem necessary. [*As am'd by L. 1910, ch. 514; L. 1913, ch. 145; and L. 1914, ch. 181.*]

§ 43. **Powers.**—1. The commissioner of labor, his deputies and their assistants and each agent, chief factory inspector, factory inspector, mine inspector, tunnel inspector, chief investigator, special investigator, chief mercantile inspector, and mercantile inspector may administer oaths and take affidavits in matters relating to the provisions of this chapter. [*Subd. 1 am'd by L. 1910, ch. 514; L. 1912, ch. 382; and L. 1913, ch. 145.*]

2. No person shall interfere with, obstruct or hinder by force or otherwise the commissioner of labor, any member of the industrial board, or any officer, agent or employee of the department of labor while in the performance of their duties, or refuse to properly answer questions asked by such officers or employees pertaining to the provisions of this chapter, or refuse them admittance to any place which is affected by the provisions of this chapter. [*Subd. 2 am'd by L. 1910, ch. 514; and L. 1913, ch. 145.*]

3. All notices, orders and directions of any officer, agent or employee of the department of labor other than the commissioner of labor or the industrial board given in accordance with this chapter are subject to the approval of the commissioner of labor, and may be performed or given by and in the name of the commissioner of labor and by any officer or employee of the department thereunto duly authorized by such commissioner in the name of such commissioner. [*Subd. 3 am'd by L. 1910, ch. 514; and L. 1913, ch. 145.*]

4. The commissioner of labor may procure and cause to be used badges for himself and his subordinates in the department of labor while in the performance of their duties.

§ 44. **Salaries and expenses.**—All necessary expenses incurred by the commissioner of labor in the discharge of his duties shall be paid by the state treasurer upon the warrant of the comptroller issued upon proper vouchers therefor. The reasonable and necessary traveling and other expenses of the deputy commissioners, their assistants, the agents and statisticians, the chief factory inspectors, the factory inspectors, chief investigator, the special investigators, the chief mercantile inspector, mercantile inspectors, and other field officers of the department while engaged in the performance of their duties shall be paid in like manner upon vouchers approved by the commissioner of labor and audited by the comptroller. [*As am'd by L. 1910, ch. 514; and L. 1913, ch. 145.*]

§ 45. **Branch offices.**—The commissioner of labor shall establish and maintain branch offices of the department in the city of New York and in such other cities of the state as he may deem advisable. Such branch offices shall, subject to the supervision and direction of the commissioner of labor, be in immediate charge of such officials or employees as the commissioner of labor may designate. The reasonable and necessary expenses of such offices shall be paid as are other expenses of the commissioner of labor. [*As am'd by L. 1911, ch. 729; and L. 1913, ch. 145.*]

§ 46. **Reports.**—The commissioner of labor shall report annually to the legislature and shall include in his annual report or make separately in each year a report of the operation of each bureau in the department. [*As am'd by L. 1913, ch. 145.*]

§ 47. **Old records.**—All statistics furnished to and all complaints, reports and other documentary matter received by the commissioner of labor pursuant to this chapter or any act repealed or superseded thereby may be destroyed by such commissioner after the expiration of six years from the time of the receipt thereof.

Compare Penal Law, § 2050.

§ 48. **Counsel.**—The commissioner of labor shall appoint and may at pleasure remove counsel who shall be an attorney and counsellor at law of the state of New York to represent the department of labor and to take charge of and assist in the prosecution of actions and proceedings brought by or on behalf of the commissioner of labor or the department of labor, and generally to act as legal adviser to the commissioner. Such counsel shall receive a salary of four thousand dollars a year. The commissioner of labor shall have power to appoint and at pleasure remove attorneys and counsellors at law to assist the counsel in the performance of his duties who shall receive such compensation as may be provided by law. [*As am'd by L. 1913, ch. 145.*]

ARTICLE 3-A

[*Added by L. 1913, ch. 145*]

Industrial Board

Section 50. Industrial board; organization.

51. Jurisdiction of board.

52. Rules and regulations; industrial code.

§ 50. **Industrial board; organization.**—1. There shall be an industrial board, to consist of the commissioner of labor, who shall be chairman of the board, and four associate members. The associate members shall be appointed by the governor by and with the consent and advice of the Senate. Of the associate members first appointed, one shall hold office until December first, nineteen hundred and fourteen, one until December first, nineteen hundred and fifteen, one until December first, nineteen hundred and sixteen, and one until December first, nineteen hundred and seventeen. Upon the expiration of each of said terms, the term of office of each associate member thereafter appointed shall be for four years from the first day of December. Vacancies shall be filled by appointment for the unexpired term. The associate members shall each receive a salary of three thousand dollars a year and each of said associate members shall be paid his reasonable and necessary traveling and other expenses while engaged in the performance of his duties in the manner provided in section forty-four of this chapter.

2. The board shall appoint and may remove a secretary who shall receive a salary to be fixed by the board. The commissioner of labor shall detail, from time to time, to the assistance of the board, such employees of the department of labor as the board may require. In aid of its work, the board is empowered to employ experts for special and occasional services, and to employ necessary clerical assistants. The counsel to the department of labor shall be counsel to the board without additional compensation.

3. The board shall hold stated meetings, at least once a month during the year at the office of the department of labor in the city of Albany or in the city of New York and shall hold other meetings at such times and places as the needs of the public service may require, which meetings shall be called by the chairman or by any two associate members of the board. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon every question and records of its examinations and other official action.

§ 51. Jurisdiction of board.—The board shall have power: (1) To make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter and the rules and regulations made by the board thereunder, and in the course of such investigations, each member of the board and the secretary shall have power to administer oaths and take affidavits. Each member of the board and the secretary shall have power to make personal inspections of all factories, factory buildings, mercantile establishments and other places to which this chapter is applicable.

(2) To subpoena and require the attendance in this state of witnesses and the production of books and papers pertinent to the investigations and inquiries hereby authorized and to examine them in relation to any matter which it has power to investigate, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the board or excused from attendance.

(3) To make, alter, amend and repeal rules and regulations for carrying into effect the provisions of this chapter, applying such provisions to specific conditions and prescribing specific means, methods or practices to effectuate such provisions.

(4) To make, alter, amend or repeal rules and regulations for guarding against and minimizing fire hazards, personal injuries and disease, with respect to (a) the construction, alteration, equipment and maintenance of factories, factory buildings, mercantile establishments and other places to which this chapter is applicable, including the conversion of structures into factories and factory buildings; (b) the arrangement and guarding of machinery and the storing and keeping of property and articles in factories, factory buildings and mercantile establishments; (c) the places where and the methods and operations by which trades and occupations may be conducted and the conduct of employers, employees and other persons in and about factories, factory buildings and mercantile establishments; it being the policy and intent of this chapter that all factories, factory buildings, mercantile establishments and other places to which this chapter is applicable, shall be so construed, equipped, arranged, operated and conducted in all respects as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein and that the said board shall from time to time make such rules and regulations as will effectuate the said policy and intent.

The industrial board has power to adopt rules and regulations making more stringent provisions for the safety of factories than those contained in the Labor Law, notwithstanding the fact that the law itself provides for the same subjects: Opinion of Attorney-General, August 26, 1913.

§ 52. Rules and regulations; industrial code.—1. The rules and regulations adopted by the board pursuant to the provisions of this chapter shall have the force and effect of law and shall be enforced in the same manner as the provisions of this chapter. Such rules and regulations may apply in whole or in part to particular kinds of factories or workshops, or to particular machines, apparatus or articles; or to particular processes, industries, trades or occupations; and they may be limited in their application to factories or workshops to be established, or to machines, apparatus or other articles to be installed or provided in the future.

2. At least three affirmative votes shall be necessary to the adoption of any rule or regulation by the board. Before any rule or regulation is adopted, altered, amended or repealed by the board there shall be a public hearing thereon, notice of which shall be published not less than ten days, in such newspapers as the board may prescribe. Every rule or regulation and every act of the board shall be promptly published in bulletins of the department of labor or in such newspapers as the board may prescribe. The rules and regulations, and alterations, amendments and changes thereof shall, unless otherwise prescribed by the board, take effect twenty days after the first publication thereof.

3. The rules and regulations which shall be in force on the first day of January, nineteen hundred and fourteen, and the amendments and alterations thereof, and the additions thereto, shall constitute the industrial code. The industrial code may embrace all matters and subjects to which and so far as the power and authority of the department of labor extends and its application need not be limited to subjects enumerated in this article. The industrial code and all amendments and alterations thereof and additions thereto shall be certified by the secretary of the board and filed with the secretary of state.

ARTICLE 4

[Formerly article 5, sections 60-68; renumbered by L. 1913, ch. 145]

Bureau of Inspection

Section 53. Bureau of inspection; inspector general; divisions.

54. Inspectors.

55. Division of factory inspection; factory inspection districts; chief factory inspectors.

56. Idem; general powers and duties.

57. Division of homework inspection.

58. Division of mercantile inspection.

59. Idem; general powers and duties.

60. Division of industrial hygiene.

61. Section of medical inspection.

§ 53. Bureau of inspection; inspector general; divisions.—The bureau of inspection, subject to the supervision and direction of the commissioner of labor, shall have charge of all inspections made pursuant to the provisions of this chapter, and shall perform such other duties as may be assigned to it by the commissioner of labor. The first deputy commissioner of labor shall be the inspector general of the state, and in charge of this bureau subject to the direction and supervision of the commissioner of labor, except that the division of industrial hygiene shall be under the immediate direction and supervision of the commissioner of labor. Such bureau shall have

four divisions as follows: factory inspection, homework inspection, mercantile inspection and industrial hygiene. There shall be such other divisions in such bureau as the commissioner of labor may deem necessary. In addition to their respective duties as prescribed by the provisions of this chapter, such divisions shall perform such other duties as may be assigned to them by the commissioner of labor. [*Added by L. 1913, ch. 145.*]

§ 54. **Inspectors.**—1. Factory inspectors. There shall be not less than one hundred and twenty-five factory inspectors, not more than thirty of whom shall be women. Such inspectors shall be appointed by the commissioner of labor and may be removed by him at any time. The inspectors shall be divided into seven grades. Inspectors of the first grade, of whom there shall be not more than ninety-five, shall each receive an annual salary of one thousand two hundred dollars; inspectors of the second grade, of whom there shall be not more than fifty, shall each receive an annual salary of one thousand five hundred dollars; inspectors of the third grade, of whom there shall be not more than twenty-five, shall each receive an annual salary of one thousand eight hundred dollars; inspectors of the fourth grade, of whom there shall be not more than ten, shall each receive an annual salary of two thousand dollars and shall be attached to the division of industrial hygiene and act as investigators in such division; inspectors of the fifth grade, of whom there shall be not more than nine, one of whom shall be able to speak and write at least five European languages in addition to English, shall each receive an annual salary of two thousand five hundred dollars and shall act as supervising inspectors; inspectors of the sixth grade, of whom there shall be not less than three and one of whom shall be a woman, shall act as medical inspectors and shall each receive an annual salary of two thousand five hundred dollars; inspectors of the seventh grade, of whom there shall be not less than four, shall each receive an annual salary of three thousand five hundred dollars; all of the inspectors of the sixth grade shall be physicians duly licensed to practice medicine in the state of New York. Of the inspectors of the seventh grade one shall be a physician duly licensed to practice medicine in the state of New York, and he shall be the chief medical inspector; one shall be a chemical engineer; one shall be a mechanical engineer, and an expert in ventilation and accident prevention; and one shall be a civil engineer, and an expert in fire prevention and building construction. [*Subd. 1 am'd by L. 1911, ch. 729; L. 1912, ch. 158; and L. 1913, ch. 145.*]

2. Mercantile inspectors. The commissioner of labor may appoint from time to time not more than twenty mercantile inspectors not less than four of whom shall be women and who may be removed by him at any time. The mercantile inspectors may be divided into three grades but not more than five shall be of the third grade. Each mercantile inspector of the first grade shall receive an annual salary of one thousand dollars; of the second grade an annual salary of one thousand two hundred dollars; and of the third grade an annual salary of one thousand five hundred dollars. [*Subd. 2 derived from former § 181, repealed by L. 1913, ch. 145, § 15; added by L. 1913, ch. 145.*]

§ 55. **Division of factory inspection; factory inspection districts; chief factory inspectors.**—For the inspection of factories, there shall be two inspec-

tion districts to be known as the first factory inspection district and the second factory inspection district. The first factory inspection district shall include the counties of New York, Bronx, Kings, Queens, Richmond, Nassau and Suffolk. The second factory inspection district shall include all the other counties of the state. There shall be two chief factory inspectors who shall be appointed by the commissioner of labor and who may be removed by him at any time and each of whom shall receive a salary of four thousand dollars a year. The inspection of factories in each factory inspection district shall, subject to the supervision and direction of the commissioner of labor, be in charge of a chief factory inspector assigned to such district by the commissioner of labor. The commissioner of labor may designate one of the supervising inspectors as assistant chief factory inspector for the first district, and while acting as such assistant chief factory inspector shall receive an additional salary of five hundred dollars per annum. [Added by L. 1913, ch. 145.]

§ 56. *Idem*; general powers and duties.—1. The commissioner of labor shall, from time to time, divide the state into sub-districts, assign one factory inspector of the fifth grade to each sub-district as supervising inspector, and may in his discretion transfer such supervising inspector from one sub-district to another; he shall from time to time, assign and transfer factory inspectors to each factory inspection district and to any of the divisions of the bureau of inspection; he may assign any factory inspector to inspect any special class or classes of factories or to enforce any special provisions of this chapter; and he may assign any one or more of them to act as clerks in any office of the department. [Subd. 1 am'd by L. 1911, ch. 729; and L. 1913, ch. 145.]

2. The commissioner of labor may authorize any deputy commissioner or assistant and any agent or inspector in the department of labor to act as a factory inspector with the full power and authority thereof. [Subd. 2 am'd by L. 1913, ch. 145.]

3. The commissioner of labor, the first deputy commissioner of labor and his assistant or assistants, and every factory inspector and every person duly authorized pursuant to sub-division two of this section may, in the discharge of his duties enter any place, building or room which is affected by the provisions of this chapter and may enter any factory whenever he may have reasonable cause to believe that any labor is being performed therein. [Subd. 3 am'd by L. 1911, ch. 729; and L. 1913, ch. 145.]

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the factories, during reasonable hours, as often as practicable, and shall cause the provisions of this chapter and the rules and regulations of the industrial board to be enforced therein. [Subd. 4 am'd by L. 1913, ch. 145.]

5. Any lawful municipal ordinance,* by-law or regulation relating to factories, in addition to the provisions of this chapter and not in conflict therewith, may be observed and enforced by the commissioner of labor.

The commissioner of labor may also assign duties to the inspectors of steam vessels when transferred by the superintendent of public works in accordance with the Navigation Law (ch. 37 of the Consolidated Laws) as follows:

* With the possible exception of New York City ordinances (City of New York v. Trustees of Sailors' Snug Harbor, 85 App. Div. 355, aff'd 180 N. Y. 527, and opinion by Attorney-General, January 16, 1904).

§ 3. *Duties of superintendent of public works.*—The superintendent of public works shall superintend the administration of the provisions of this article, appoint the inspectors provided for in this act and exercise supervision over them in the performance of their duties so far as the same relate to the administration and enforcement of the provisions of this article. During such periods of the year as in the judgment of the superintendent of public works, the services of the inspectors provided to be appointed by this article shall not be needed in the administration of the provisions of this article, he may, upon request of the commissioner of labor, for temporary periods, transfer such inspectors to the department of labor, and during the periods in which said inspectors are so transferred, they shall be subject to the jurisdiction of the commissioner of labor and subject to detail by him as experts in the administration of the labor law. The necessary traveling expenses of said inspectors while acting under the jurisdiction of the commissioner of labor shall be paid from the funds appropriated for the administration of the department of labor, and their salaries shall be paid, as hereinafter provided, by the superintendent of public works, their vouchers to be approved by the commissioner of labor.

§ 57. *Division of homework inspection.*—The division of homework inspection shall be in charge of an officer or employee of the department of labor designated by the commissioner of labor and shall, subject to the supervision and direction of the commissioner of labor, have charge of all inspections of tenement houses and of labor therein and of all work done for factories at places other than such factories. [Added by L. 1913, ch. 145.]

§ 58.* *Division of mercantile inspection.*—The division of mercantile inspection shall be under the immediate charge of the chief mercantile inspector, but subject to the direction and supervision of the commissioner of labor. The chief mercantile inspector shall be appointed and be at pleasure removed by the commissioner of labor, and shall receive an annual salary not to exceed four thousand dollars. [Added by L. 1913, ch. 145; am'd by L. 1914, ch. 333.]

§ 59.* *Id.; general powers and duties.*—1. The commissioner of labor may divide the cities of the first and second class of the state into mercantile inspection districts, assign one or more mercantile inspectors to each such district, and may in his discretion transfer them from one such district to another; he may assign any of them to inspect any special class or classes of mercantile or other establishments specified in article twelve of this chapter, situated in cities of the first and second class, or to enforce in cities of the first or second class any special provision of such article. [Added by L. 1913, ch. 145.]

2. The commissioner of labor may authorize any deputy commissioner or assistant and any agent or inspector in the department of labor to act as a mercantile inspector with the full power and authority thereof. [Added by L. 1913, ch. 145.]

3. The commissioner of labor, the chief mercantile inspector and his assistant or assistants and every mercantile inspector or acting mercantile inspector may in the discharge of his duties enter any place, building or room in cities of the first or second class which is affected by the provisions of article twelve of this chapter, and may enter any mercantile or other establishment specified in said article, situated in the cities of the first or second class, whenever he may have reasonable cause to believe that it is affected

* Sections 58 and 59 were derived from former sections 180 and 182, repealed by L. 1913, ch. 145, § 15.

by the provisions of article twelve of this chapter. [Added by L. 1913, ch. 145.]

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the mercantile and other establishments specified in article twelve of this chapter situated in cities of the first and second class, as often as practicable, and shall cause the provisions of said article and the rules and regulations of the industrial board to be enforced therein. [Added by L. 1913, ch. 145.]

5. Any lawful municipal ordinance, by-law or regulation relating to mercantile or other establishments specified in article twelve of this chapter, in addition to the provisions of this chapter and not in conflict therewith, may be enforced by the commissioner of labor in cities of the first and second class. [Added by L. 1913, ch. 145.]

§ 60. Division of industrial hygiene.—The inspectors of the seventh grade shall constitute the division of industrial hygiene, which shall be under the immediate charge of the commissioner of labor. The commissioner of labor may select one of the inspectors of the seventh grade to act as the director of such division, and such director while acting in that capacity shall receive an additional compensation of five hundred dollars a year. The members of the division of industrial hygiene shall make special inspections of factories, mercantile establishments and other places subject to the provisions of this chapter, throughout the state, and shall conduct special investigations of industrial processes and conditions. The commissioner of labor shall submit to the industrial board the recommendations of the division regarding proposed rules and regulations and standards to be adopted to carry into effect the provisions of this chapter and shall advise said board concerning the operation of such rules and standards and as to any changes or modifications to be made therein. The members of such division shall prepare material for leaflets and bulletins calling attention to dangers in particular industries and the precautions to be taken to avoid them; and shall perform such other duties and render such other services as may be required by the commissioner of labor. The director of such division shall make an annual report to the commissioner of labor of the operation of the division, to which may be attached the individual reports of each member of the division as above specified, and same shall be transmitted to the legislature as part of the annual report of the commissioner of labor. [Added by L. 1913, ch. 145.]

§ 61. Section of medical inspection.—The inspectors of the sixth grade shall constitute the section of medical inspection which shall, subject to the supervision and direction of the director of the division of industrial hygiene, be under the immediate charge of the chief medical inspector. The section of medical inspection shall inspect factories, mercantile establishments and other places subject to the provisions of this chapter throughout the state with respect to conditions of work affecting the health of persons employed therein and shall have charge of the physical examination and medical supervision of all children employed therein and shall perform such other duties and render such other services as the commissioner of labor may direct. [Added by L. 1913, ch. 145.]

ARTICLE 5

[Formerly article 4, sections 55-58; renumbered by L. 1913, ch. 145]

Bureau of Statistics and Information

Section 62. Bureau of statistics and information.

63. Divisions; duties and powers.

64. Information to be furnished upon request.

65. Industrial poisoning to be reported.

§ 62. Bureau of statistics and information.—The bureau of statistics and information, shall be under the immediate charge of a chief statistician, but subject to the direction and supervision of the commissioner of labor. [*As am'd by L. 1913, ch. 145.*]

Compare § 42, *ante*.

§ 63. Divisions; duties and powers.—1. The bureau of statistics and information shall have five divisions as follows: general labor statistics; industrial directory; industrial accidents and diseases; special investigations; and printing and publication. There shall be such other divisions in such bureau as the commissioner of labor may deem advisable. Each of the said divisions shall, subject to the supervision and direction of the commissioner of labor and of the chief statistician, be in charge of an officer or employee of the department of labor designated by the commissioner of labor; and each of the said divisions, in addition to the duties prescribed in this chapter, shall perform such other duties as may be assigned to it by the commissioner of labor. [*Subd. 1 added by L. 1913, ch. 145.*]

2. The division of general labor statistics shall collect, and prepare statistics and general information in relation to conditions of labor and the industries of the state. [*Subd. 2 am'd by L. 1913, ch. 145.*]

3. The division of industrial directory shall prepare annually an industrial directory for all cities and villages having a population of one thousand or more according to the last preceding federal census or state enumeration. Such directory shall contain information regarding opportunities and advantages for manufacturing in every such city or village, the factories established therein, hours of labor, housing conditions, railroad and water connections, water power, natural resources, wages and such other data regarding social, economic and industrial conditions as in the judgment of the commissioner would be of value to prospective manufacturers, and their employees. If a city is divided into boroughs the directory shall contain such information as to each borough. [*Subd. 3 added by L. 1913, ch. 145.*]

4. The division of industrial accidents and diseases shall collect and prepare statistical details and general information regarding industrial accidents and occupational diseases, their causes and effects, and methods of preventing, curing and remedying them, and of providing compensation therefor. [*Subd. 4 added by L. 1913, ch. 145.*]

5. The division of special investigations shall have charge of all investigations and research work relating to economic and social conditions of labor conducted by such bureau. [*Subd. 5 added by L. 1913, ch. 145.*]

6. The division of printing and publication shall print, publish and disseminate in such manner and to such extent as the commissioner of labor shall direct, such information and statistics as the commissioner of labor

may direct for the purpose of promoting the health, safety and well being of persons employed at labor. [*Subd. 6 added by L. 1913, ch. 145.*]

7. The commissioner of labor may subpoena witnesses, take and hear testimony, take or cause to be taken depositions and administer oaths. [*Subd. 7 am'd by L. 1913, ch. 145. Section 63, formerly section 56, renumbered and am'd by L. 1913, ch. 145.*]

Subpoena, how issued, Code of Civil Procedure, § 854; how served, *id.*, § 852; fees, *id.*, § 8318.

Duties and powers discussed, *People v. Peck*, 138 N. Y. 396, which held the commissioner of labor statistics to be a public officer within the meaning of § 2050 of the Penal Law.

L. 1911, ch. 182, makes the commissioner of labor or such state official as the governor may designate, ex-officio trustee of the American Museum of Safety. L. 1914, ch. 466, authorizes the city of New York to appropriate not to exceed fifty thousand dollars a year to the American Museum of Safety upon condition, that its exhibits be kept open to the public free of charge throughout the year and that its trustees publish and distribute among such schools of the state as the commissioner of education and the commissioner of labor may designate manuals of safety and hygiene and reading lectures on accident prevention and industrial hygiene.

§ 64. Information to be furnished upon request.—The owner, operator, manager or lessee of any mine, factory, workshop, warehouse, elevator, foundry, machine shop or other manufacturing establishment, or any agent, superintendent, subordinate, or employee thereof, and any person employing or directing any labor affected by the provisions of this chapter, shall, when requested by the commissioner of labor, furnish any information in his possession or under his control which the commissioner is authorized to require, and shall admit him or his duly authorized representative to any place which is affected by the provisions of this chapter for the purpose of inspection. A person refusing to admit such commissioner, or person authorized by him, to any such establishment, or to furnish him any information requested, or who refuses to answer or untruthfully answers questions put to him by such commissioner, in a circular or otherwise, shall forfeit to the people of the state the sum of one hundred dollars for each refusal or untruthful answer given, to be sued for and recovered by the commissioner in his name of office. The amount so recovered shall be paid into the state treasury. [*As am'd by L. 1913, ch. 145.*]

§ 65. Industrial poisonings to be reported.—1. Every medical practitioner attending on or called in to visit a patient whom he believes to be suffering from poisoning from lead, *phosphorous, arsenic, brass, wood alcohol, mercury or their compounds, or from anthrax, or from compressed air illness, contracted as the result of the nature of the patient's employment, shall send to the commissioner of labor a notice stating the name and full postal address and place of employment of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering, with such other and further information as may be required by the said commissioner. [*Subd. 1 am'd by L. 1913, ch. 145.*]

2. If any medical practitioner, when required by this section to send a notice, fails forthwith to send the same, he shall be liable to a fine not exceeding ten dollars.

* So in original.

3. It shall be the duty of the commissioner of labor to enforce the provisions of this section, and he may call upon the state and local boards of health for assistance. [Section added as section 58 by L. 1911, ch. 258; am'd and renumbered section 65 by L. 1913, ch. 145.]

ARTICLE 5-A

[Added by L. 1914, ch. 181]

Bureau of Employment*

Section 66. Director.

- 66-a. Public employment offices.
- 66-b. Purpose.
- 66-c. Officers.
- 66-d. Registration of applicants.
- 66-e. Reports of superintendents.
- 66-f. Advisory committees.
- 66-g. Notice of strikes or lockouts.
- 66-h. Applicants not to be disqualified.
- 66-i. Departments.
- 66-j. Juveniles.
- 66-k. Co-operation of public employment.
- 66-l. Advertising.
- 66-m. Service to be free.
- 66-n. Penalties.
- 66-o. Labor market bulletin.
- 66-p. Information †for employment agencies.

§ 66. Director.—The bureau of employment shall be under the immediate charge of a director who shall have recognized executive and managerial ability, technical and scientific knowledge upon the subject of unemployment and administration of public employment offices and recognized capacity to direct investigations of unemployment and public and private agencies for remedying the same. The civil service examination for the position of director shall be such as to test whether candidates have the above qualifications. As a part of such examination each candidate shall be required to submit a detailed plan of organization and administration of employment offices such as are contemplated by this article.

§ 66-a. Public employment offices.—The commissioner of labor shall establish such public employment offices, and such branch offices, as may be necessary to carry out the purpose of this article.

§ 66-b. Purpose.—The purpose of such offices shall be to bring together all kinds and classes of workmen in search of employment and employers seeking labor.

§ 66-c. Officers.—Each office shall be in charge of a superintendent, who shall be subject to the supervision and direction of the director. Such other employees shall be provided as may be necessary for the proper administration of the affairs of the office.

§ 66-d. Registration of applicants.—The superintendent of every public employment office shall receive applications from those seeking employment and from those seeking employees and shall register every applicant on properly arranged cards or forms provided by the commissioner of labor.

* For regulation of private employment agencies, see pp. 289-298, *post*.

† So in original.

§ 66-e. **Reports of superintendents.**— Each superintendent shall make to the director such periodic reports of applications for labor or employment and all other details of the work of each office, and the expenses of maintaining the same, as the commissioner of labor may require.

§ 66-f. **Advisory committees.**— The commissioner of labor shall appoint for each public employment office an advisory committee, whose duty it shall be to give the superintendent advice and assistance in connection with the management of such employment office. The superintendent shall consult from time to time with the advisory committee attached to his office. Such advisory committee shall be composed of representative employers and employees with a chairman who shall be agreed upon by a majority of such employers and of such employees. Vacancies, however caused, shall be filled in the same manner as the original appointments. The advisory committees may appoint such subcommittees as they may deem advisable. At the request of a majority either of the employers or of the employees on advisory committees, the voting on any particular question shall be so conducted that there shall be an equality of voting power between the employers and the employees, notwithstanding the absence of any member. Except as above provided, every question shall be decided by a majority of the members present and voting on that question. The chairman shall have no vote on any question on which the equality of voting power has been claimed.

§ 66-g. **Notice of strikes or lockouts.**— An employer, or a representative of employers or employees may file at a public employment office a signed statement with regard to the existence of a strike or lockout affecting their trade. Such a statement shall be exhibited in the employment office, but not until it has been communicated to the employers affected, if filed by employees, or to the employees affected, if filed by employers. In case of a reply being received to such a statement, it shall also be exhibited in the employment office. If any employer affected by a statement notifies the public employment office of a vacancy or vacancies, the officer in charge shall advise any applicant for such vacancy or vacancies of the statements that have been made.

§ 66-h. **Applicants not to be disqualified.**— No person shall suffer any disqualification, or be otherwise prejudiced on account of refusing to accept employment found for him through a public employment office, where the ground of refusal is that a strike or lockout exists which affects the work, or that the wages are lower than those current in the trade in that particular district or section where the employment is offered.

§ 66-i. **Departments.**— The commissioner of labor may organize in any office separate departments with separate entrances for men, women and juveniles; these departments may be subdivided into a division for farm labor and such other divisions for different classes of work as may in his judgment be required.

§ 66-j. **Juveniles.**— Applicants for employment who are between the ages of fourteen and eighteen years shall register upon special forms provided by the commissioner of labor. Such applicants upon securing their employment certificates as required by law, may be permitted to register at a public or other recognized school and when forms containing such applications are transmitted to a public employment office they shall be treated as equivalent to personal registration. The superintendent of each public employment office

shall co-operate with the school principals in endeavoring to secure suitable positions for children who are leaving the schools to begin work. To this end he shall transmit to the school principals a sufficient number of application forms to enable all pupils to register who desire to do so; and such principals shall acquaint the teachers and pupils with the purpose of the public employment office in placing juveniles. The advisory committee shall appoint special committees on juvenile employment which shall include employers, workmen, and persons possessing experience or knowledge of education, or of other conditions affecting juveniles. It shall be the duty of these special committees to give advice with regard to the management of the public employment offices to which they are attached in regard to juvenile applicants for employment. Such committees may take steps either by themselves or in co-operation with other bodies or persons to give information, advice and assistance to boys and girls and their parents with respect to the choice of employment and other matters bearing thereon.

§ 66-k. **Co-operation of public employment offices.**—The commissioner of labor shall arrange for the co-operation of the offices created under this article in order to facilitate, when advisable, the transfer of applicants for work from places where there is an oversupply of labor to places where there is a demand. To this end he shall cause lists of vacancies furnished to the several offices, as herein provided, to be prepared and shall supply them to newspapers and other agencies for disseminating information, in his discretion, and to the superintendents of the public employment offices. The superintendent shall post these lists in conspicuous places, so that they may be open to public inspection.

§ 66-l. **Advertising.**—The commissioner of labor shall have power to solicit business for the public employment offices established under this article by advertising in newspapers and in any other way that he may deem expedient, and to take any other steps that he may deem necessary to insure the success and efficiency of such offices; provided, that the expenditure under this section for advertising shall not exceed five per centum of the total expenditure for the purposes of this article.

§ 66-m. **Service to be free.**—No fees direct or indirect shall in any case be charged to or received from those seeking the benefits of this article.

§ 66-n. **Penalties.**—Any superintendent or clerk, subordinate or appointee, appointed under this article, who shall accept directly or indirectly any fee, compensation or gratuity from any one seeking employment or labor under this article, shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in jail for a term not exceeding six months, or both, and shall thereafter be disqualified from holding any office or position in such bureau.

§ 66-o. **Labor market bulletin.**—The bureau of statistics and information of the department of labor shall publish a bulletin in which shall be made public all possible information with regard to the state of the labor market including reports of the business of the various public employment offices.

§ 66-p. **Information from employment agencies.**—For the purposes specified in the foregoing section every employment office or agency, other than those established under this article, shall keep a register of applicants for work and applicants for help in such form as may be required by the commissioner of labor in order to afford the same information as that supplied by state

offices. Such register shall be subject to inspection by the commissioner of labor and information therefrom shall be furnished to him at such times and in such form as he may require.

ARTICLE 6

Factories

[*The Penal Law, § 1275, p. 171, post, makes it a misdemeanor to violate or refuse to comply with the provisions of this article, which are to be strictly construed. Murphy v. Bennett, 11 App. Div. 298.*]

- Section 69. Registration of factories.
 70. Employment of minors.
 71. Employment certificate how issued.
 72. Contents of certificate.
 73. School record, what to contain.
 75. Supervision over issuance of certificates.
 76. Registry of children employed.
 76-a. Physical examination of children in factories; cancellation of employment certificates.
 77. Hours of labor of children, minors and women.
 78. Exceptions.
 79. Elevators and hoistways.
 79-a. Construction of factory buildings hereafter erected.
 79-b. Requirements for existing buildings.
 79-c. Additional requirements common to buildings heretofore and hereafter erected.
 79-d. Effect of foregoing provisions; inspection of buildings and approval of plans.
 79-e. Limitation of number of occupants.
 79-f. Meaning of terms.
 81. Protection of employees operating machinery; dust-creating machinery; lighting of factories and workrooms.
 83-a. Fire alarm signal systems and fire drills.
 83-b. Automatic sprinklers.
 83-c. Fire proof receptacles; gas jets; smoking.
 84. Cleanliness of rooms.
 84-a. Cleanliness of factory buildings.
 85. Size of rooms.
 86. Ventilation.
 87. Accidents to be reported.
 88. Drinking water, wash-rooms and dressing rooms.
 88-a. Water closets.
 89. Time allowed for meals.
 89-a. Prohibition against eating meals in certain work rooms.
 90. Inspection of factory buildings.
 92. Laundries.
 93. Prohibited employment of women and children.
 93-a. Employment of females after childbirth prohibited.
 93-b. Period of rest at night for women.
 94. Tenant-factories.
 95. Unclean factories.
 96. Definition of "custodian."
 97. Brass, iron and steel foundries.
 98. Labor camps.
 99. Dangerous trades.
 99-a. Laws to be posted.

§ 69. Registration of factories.—The owner of every factory shall register such factory with the state department of labor, giving the name of the owner, his home address, the address of the business, the name under which

it is carried on, the number of employees and such other data as the commissioner of labor may require. Such registration of existing factories shall be made within six months after this section takes effect. Factories hereafter established shall be so registered within thirty days after the commencement of business. Within thirty days after a change in the location of a factory the owner thereof shall file with the commissioner of labor the new address of the business, together with such other information as the commissioner of labor may require. [Added by L. 1912, ch. 335.]

§ 70. **Employment of minors.**—No child under the age of fourteen years shall be employed, permitted or suffered to work in or in connection with any factory in this state, or for any factory at any place in this state. No child between the ages of fourteen and sixteen years shall be so employed, permitted or suffered to work unless an employment certificate, issued as provided in this article, shall have been theretofore filed in the office of the employer at the place of employment of such child. Nothing herein contained shall prevent a person engaged in farming from permitting his children to do farm work for him upon his farm. Boys over the age of twelve years may be employed in gathering produce, for not more than six hours in any one day, subject to the requirements of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," and all acts amendatory thereof. [As am'd by L. 1913, ch. 529.]

Compare Education Law, §§ 626-628, pp. 174, 175, *post*, and §§ 161-162, *post*.

The prohibition is absolute; lack of intent or knowledge not a defense: Opinion of Attorney-General, January 16, 1905; *City of New York v. Chelsea Jute Mills*, 48 Misc. 266, where it was held, March 24, 1904, that ignorance of the child's age and an honest belief on the part of the employer that it was over age, was no defense. But an officer of a corporation who has directed that no child shall be employed contrary to law is not liable if a subordinate, without his knowledge, illegally employs a child: *People v. Taylor*, 192 N. Y. 398 (1908).

Violation is a misdemeanor: Penal Law, § 1275, p. 171, *post* and *prima facie* evidence of negligence on the part of an employer in an action against him: *Marino v. Lehmler*, 173 N. Y. 580; *Koester v. Rochester Candy Works*, 194 N. Y. 92 (1909); *Sitts v. Walontha Co.*, 94 App. Div. 38; *Dragotto v. Plunkett*, 113 App. Div. 648; *Lee v. Sterling Silk Mfg. Co.*, 115 App. Div. 589 and 134 App. Div. 123; *Kenyon v. Sanford Mfg. Co.*, 199 App. Div. 570; *Fortune v. Hall*, 122 App. Div. 250; *Danaher v. American Mfg. Co.*, 126 App. Div. 385 (1908). Compare also § 202, *post*.

A child under fourteen years of age may not be employed in a factory or mercantile establishment which is owned or controlled by the child's parents: Opinion of Attorney-General, May 14, 1912.

For right of employer violating child labor requirements to recover from liability insurance company, see *Mason-Henry Press v. Aetna Life Insurance Co.*, 211 N. Y. 490.

§ 71. **Employment certificate how issued.**—Such certificate shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides, or is to be employed, or by such other officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent or guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, viz.: The school record of such child properly filled out and signed as provided in this

article; also evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate: A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births, which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation: A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate: A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence: In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested, and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in said subdivisions can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts, together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates: In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein. and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child

to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child further has personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. Every such employment certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued. In every case, before an employment certificate is issued, such physical fitness shall be determined by a medical officer of the department or board of health, who shall make a thorough physical examination of the child and record the result thereof on a blank to be furnished for the purpose by the state commissioner of labor and shall set forth thereon such facts concerning the physical condition and history of the child as the commissioner of labor may require. [*As am'd by L. 1912, cA. 333.*]

Compare § 163, *post*.

The requirement of an examination as to physical fitness is of state-wide application and is not limited to cities of the first class: Opinion of Attorney-General, November 9, 1912.

The Penal Law, § 1275, p. 171, *post*, makes it a misdemeanor to make a false statement in relation to an application for an employment certificate.

§ 72. Contents of certificate.—Such certificate shall state the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Compare § 164, *post*.

§ 73. School record, what to contain.—The school record required by this article shall be signed by the principal or chief executive officer of the school

which such child has attended and shall be furnished, on demand, to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto, or parochial schools, for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday, or during the twelve months next preceding his application for such school record and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions and has completed the work prescribed for the first six years of the public elementary school or school equivalent thereto or parochial school from which such school record is issued. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian. [*As am'd by L. 1913, ch. 144.*]

Compare § 105, *post*, and Education Law, §§ 629, 630, p. 175, *post*.

§ 75. **Supervision over issuance of certificates.**—The board or department of health or health commissioner of a city, village or town, shall transmit, between the first and tenth day of each month, to the commissioner of labor, a list of the names of all children to whom certificates have been issued during the preceding month together with a duplicate of the record of every examination as to the physical fitness, including examinations resulting in rejection.

In cities of the first and second class all employment certificates and school records required under the provisions of this chapter shall be in such form as shall be approved by the commissioner of labor. In towns, villages or cities other than cities of the first or second class, the commissioner of labor shall prepare and furnish blank forms for such employment certificates and school records. No school record or employment certificate required by this article, other than those approved or furnished by the commissioner of labor as above provided, shall be used. The commissioner of labor shall inquire into the administration and enforcement of the provisions of this article by all public officers charged with the duty of issuing employment certificates, and for that purpose the commissioner of labor shall have access to all papers and records required to be kept by all such officers. [*As am'd by L. 1912, ch. 333, and L. 1913, ch. 144.*]

§ 76. **Registry of children employed.**—Each person owning or operating a factory and employing children therein shall keep or cause to be kept in the office of such factory, a register, in which shall be recorded the name, birth-place, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection upon the demand of the commissioner of labor. On termination of the employment of a child so registered, and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. The commissioner of labor may make demand on an employer in whose factory a child apparently under the age of sixteen years is employed or permitted or suffered to work, and

whose employment certificate is not then filed as required by this article, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such factory. The commissioner of labor may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said factory, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall be filed with the commissioner of labor and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the commissioner of labor within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such factory, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.

Compare § 167, *post*.

§ 76-a. Physical examination of children in factories; cancellation of employment certificates.—1. All children between fourteen and sixteen years of age employed in factories shall submit to a physical examination whenever required by a medical inspector of the state department of labor. The result of all such physical examinations shall be recorded on blanks furnished for that purpose by the commissioner of labor, and shall be kept on file in such office or offices of the department as the commissioner of labor may designate.

2. If any such child shall fail to submit to such physical examination, the commissioner of labor may issue an order cancelling such child's employment certificate. Such order shall be served upon the employer of such child who shall forthwith deliver to an authorized representative of the department of labor the child's employment certificate. A certified copy of the order of cancellation shall be served on the board of health or other local authority that issued the said certificate. No such child whose employment certificate has been cancelled, as aforesaid, shall, while said cancellation remains unrevoked, be permitted or suffered to work in any factory of the state before it attains the age of sixteen years. If thereafter such child shall submit to the physical examination required, the commissioner of labor may issue an order revoking the cancellation of the employment certificate and may return the employment certificate to such child. Copies of the order of revocation shall be served upon the former employer of the child and the local board of health as aforesaid.

3. If as a result of the physical examination made by a medical inspector it appears that the child is physically unfit to be employed in a factory, such medical inspector shall forthwith submit a report to that effect to the commissioner of labor which shall be kept on file in the office of the commissioner of labor, setting forth in detail his reasons therefor, and the commissioner of labor may issue an order cancelling the employment certificate of such child. Such order of cancellation shall be served, and the child's employment certificate delivered up, as provided in subdivision two hereof, and no such child while the said order of cancellation remains unrevoked shall be permitted or suffered to work in any factory of the state before it attains the age of sixteen years. If upon a subsequent physical examination of the child by a medical inspector of the department of labor it appears that the physical infirmities have been removed, such medical inspector shall certify to that effect to the commissioner of labor, and the commissioner of labor may thereupon make an order revoking the cancellation of the employment certificate and may return the certificate to such child. The order of revocation shall be served in the manner provided in subdivision two hereof. [Section 76-a added by L. 1913, ch. 200.]

§ 77. Hours of labor of children, minors and women.—1. No child under the age of sixteen years shall be employed or permitted to work in or in connection with any factory in this state before eight o'clock in the morning, or after five o'clock in the evening of any day, or for more than eight hours in any one day, or more than six days in any one week.

2. No male minor under the age of eighteen years shall be employed or permitted to work in any factory in this state more than six days or fifty-four hours in any one week, or for more than nine hours in any one day, except as hereinafter provided; nor between the hours of twelve midnight and four o'clock in the morning. [Subd. 2 am'd by L. 1912, ch. 539.]

3. No female minor under the age of twenty-one years and no woman shall be employed or permitted to work in any factory in this state more than six days or fifty-four hours in any one week; nor for more than nine hours in any one day except as hereinafter provided. No female minor under the age of twenty-one years shall be employed or permitted to work in any factory in this state before six o'clock in the morning or after nine o'clock in the evening of any day. [Subd. 3 am'd by L. 1912, ch. 539; and L. 1913, ch. 465.]

The limitation of the working hours of women to fifty-four per week is constitutional: *People ex rel. Hoelderlin v. Kane*, 79 Misc. 140.

4. A printed notice, in a form which shall be furnished by the commissioner of labor, stating the number of hours per day for each day of the week required of such persons, and the time when such work shall begin and end, shall be kept posted in a conspicuous place in each room where they are employed. But such persons may begin their work after the time for beginning and stop before the time for ending such work, mentioned in such notice, but they shall not otherwise be employed, permitted or suffered to work in such factory except as stated therein. The terms of such notice shall not be changed after the beginning of labor on the first day of the week without the consent of the commissioner of labor. The presence of such persons in the factory at any other hours than those stated in the

printed notice, or if no such notice be posted, before seven o'clock in the morning or after six o'clock in the evening, shall constitute prima facie evidence of a violation of this section.

5. In a factory wherein, owing to the nature of the work, it is practically impossible to fix the hours of labor weekly in advance the commissioner of labor, upon a proper application stating facts showing the necessity therefor, shall grant a permit dispensing with the notice hereinbefore required, upon condition that the daily hours of labor be posted for the information of employees and that a time book in a form to be approved by him, giving the names and addresses of all female employees and the hours worked by each of them in each day, shall be properly and correctly kept, and shall be exhibited to him or any of his subordinates promptly upon demand. Such permit shall be kept posted in such place in such factory as such commissioner may prescribe, and may be revoked by such commissioner at any time for failure to post it or the daily hours of labor or to keep or exhibit such time book as herein provided.

6. Where a female or male minor is employed in two or more factories or mercantile establishments in the same day or week the total time of employment must not exceed that allowed per day or week in a single factory or mercantile establishment; and any person who shall require or permit a female to work in a factory between the hours of six o'clock in the evening and seven o'clock in the morning in violation of the provisions of this subdivision of this section, with or without knowledge of the previous or other employment, shall be liable for a violation thereof.

The part of this section prohibiting employment of women over 21 years of age between 9 P. M. and 6 A. M. is unconstitutional: *People v. Williams*, 189 N. Y. 131 (1907); but compare note to § 93-b, *post*. Relative to hours of children, compare §§ 161, 161-a, *post*.

§ 78. Exceptions.—1. A female sixteen years of age or upwards and a male between the ages of sixteen and eighteen may be employed in a factory more than nine hours a day: (a) regularly in not to exceed five days a week, in order to make a short day or holiday on one of the six working days of the week; (b) irregularly in not to exceed three days a week; provided that no such person shall be required or permitted to work more than ten hours in any one day or more than fifty-four hours in any one week, and that the provisions of the preceding section as to notice or time book be fully complied with.

2. The provisions of subdivision two of section seventy-seven relating to maximum hours shall not apply to the employment of male minors sixteen years of age and upwards in canning or preserving perishable products in fruit and canning establishments between the fifteenth day of June and the fifteenth day of October each year. [*Subd. 2 added by L. 1912, ch. 539; am'd by L. 1913, ch. 465.*]

3. A female eighteen years of age or upwards may, notwithstanding the provisions of subdivision three of section seventy-seven of this chapter, be employed in canning or preserving perishable products in fruit and canning establishments between the fifteenth day of June and the fifteenth day of October in each year not more than six days or sixty hours in any one week nor more than ten hours in any one day; and the industrial board shall have power to adopt rules and regulations permitting the employment of women

eighteen years of age and upwards on such work in such establishments between the twenty-fifth day of June and the fifth day of August in each year not more than six days nor more than sixty-six hours in any one week nor more than twelve hours in any one day, if said board shall find that such employment is required by the needs of such industry and can be permitted without serious injury to the health of women so employed. The provisions of this subdivision shall have no application unless the daily hours of labor shall be posted for the information of employees and a time book in a form approved by the commissioner of labor, giving the names and addresses of all female employees and the hours of work by each of them in each day shall be properly and correctly kept and shall be exhibited to him or any of his subordinates promptly upon demand. No person shall knowingly make or permit or suffer to be made a false entry in any such time book. [*Subd. 3 added by L. 1913, ch. 465.*]

Compare Industrial Code, Rule 1, p. 128, *post*. For sanitation of cannery labor camps, compare Industrial Code, Rules 200-232, pp. 129-135, *post*.

4. In a prosecution for a violation of any provision of this or of the preceding section the burden of proving a permit or exception shall be upon the party claiming it. [*Originally subd. 2; renumbered subd. 3 by L. 1912, ch. 539; renumbered subd. 4 by L. 1913, ch. 465.*]

§ 79. Elevators and hoistways.—1. Inclosure of shafts. Every hoistway, hatchway or wellhole used for carrying passengers or employees, or for freight elevators, hoisting or other purpose, shall be protected on all sides at each floor including the basement, by substantial vertical inclosures. All openings in such inclosures shall be provided with self-closing gates of suitable height, or with properly constructed sliding doors. In the case of elevators used for carrying passengers or employees, such inclosure shall be flush with the hatchway, and shall extend from floor to ceiling on every open side of the car, and on every other side shall be at least six feet high, and such inclosures shall be free from fixed obstructions on every open side of the car. In the case of freight elevators the inclosures shall be flush with the hoistway on every open side of the car. In place of the inclosures herein required for freight elevators, every hatchway used for freight elevator purposes may be provided with trap doors so constructed as to form a substantial floor surface when closed and so arranged as to open and close by the action of the car in its passage both ascending and descending; provided that in addition to such trap doors, the hatchway shall be adequately protected on all sides at all floors, including the basement, by a substantial railing or other vertical inclosure at least three feet in height. [*Subd. 1 am'd by L. 1913, ch. 202; and L. 1914, ch. 366.*]

2. Guarding of elevators and hoistways. All counter-weights of every elevator shall be adequately protected by proper inclosures at the top and bottom of the run. The car of all elevators used for carrying passengers or employees shall be substantially enclosed on all sides, including the top, and such car shall at all times be properly lighted, artificial illuminants to be provided and used when necessary. The top of every freight elevator car, or platform shall be provided with a substantial grating or covering for the protection of the operator thereof, in accordance with such rules and regulations as may be adopted with reference thereto by the industrial board.

3. Elevators and hoistways in factory buildings hereafter erected. The provisions of subdivisions one and two of this section shall apply only to factory buildings heretofore erected. In all factory buildings hereafter erected, every elevator and every part thereof and all machinery connected therewith and every hoistway, hatchway and well-hole shall be so constructed, guarded, equipped, maintained and operated as to be safe for all persons using the same.

4. Maintenance of elevators and hoistways in all factory buildings. In every factory building heretofore erected or hereafter erected, all inclosures, doors and gates of hoistways, hatchways or well-holes, and all elevators therein used for the carrying of passengers or employees or freight, and the gates and doors thereof shall at all times be kept in good repair and in a safe condition. All openings leading to elevators shall be kept well lighted at all times during working hours, with artificial illumination when necessary. The cable, gearing and other apparatus of elevators used for carrying passengers or employees or freight shall be kept in a safe condition.

5. Powers of industrial board. The industrial board shall have power to make rules and regulations not inconsistent with the provisions of this chapter regulating the construction, guarding, equipment, maintenance and operation of elevators and all parts thereof, and all machinery connected therewith and hoistways, hatchways and well-holes, in order to carry out the purpose and intention of this section. [Section 79 am'd by L. 1909, ch. 299; and L. 1913, ch. 202.]

For supplementary regulation of elevators and hoistways, see Industrial Code, Rules 400-447, pp. 149-158, *post*.

Violation is not only a misdemeanor: Penal Law, § 1275, p. 171, *post*, but renders master liable in case of injury to employees: § 202, *post*. The owner of a tenant factory cannot by any lease escape responsibility for observance of this section: § 94, *post*; compare also note to § 86, *post*.

§ 79-a. Construction of factory buildings hereafter erected.—No factory shall be conducted in any building hereafter erected more than one story in height unless such building shall conform to the following requirements:

1. All buildings more than four stories in height shall be of fireproof construction. The roofs of all buildings shall be covered with incombustible material or shall be of tar and slag or plastic cement supported by or applied to arches of fireproof material, and the cornices shall be constructed of incombustible material. All exterior walls within twenty-five feet of any non-fireproof building shall be not less than eight inches thick and shall extend three feet above the roof.

For definition of fireproof construction, see § 79-f, subd. 1, *post*; for supplementary regulation, see Industrial Code, Rule 500, p. 158, and Rule 508, p. 161, *post*.

2. Floor area and required exits. The term floor area as used in this section signifies the entire space between fire walls, or between a fire wall and an exterior wall of a building, or between the exterior walls of the building where there is no intervening fire wall. From every floor area there shall be not less than two means of exit remote from each other, one of which on every floor above the ground floor shall be an interior enclosed fireproof stairway or an exterior enclosed fireproof stairway, and the other shall be such a stairway or a horizontal exit. No point in any floor area shall be more than one hundred feet distant from the entrance to one such

means of exit. Whenever any floor area exceeds five thousand square feet there shall be provided at least one additional means of exit as hereinbefore described for each five thousand square feet or part thereof in excess of five thousand square feet. In every building over one hundred feet in height there shall be at least one exterior enclosed fireproof stairway which shall be accessible from any point in the building.

3. Stairways. All stairways shall be constructed of incombustible material and shall have an unobstructed width of at least forty-four inches throughout their length, except that hand rails may project not more than three and one-half inches into such width. There shall be not more than twelve feet six inches in height between successive landings. The treads shall be not less than ten inches wide exclusive of nosing, and the rise shall be not more than seven and three-fourths inches. No stairway with "winders" shall be allowed except as a connection from one floor to another. The treads shall be constructed and maintained in such manner as to prevent persons from slipping thereon. Every stairway shall be enclosed on all sides by fireproof partitions extending continuously from the lowest story to which such stairway extends to three feet above the roof and the roof of the enclosure shall be constructed of fireproof material at least four inches thick with a skylight at least three-fourths the area of the shaft. All stairways serving as required means of exit shall extend to the roof and shall lead continuously to the street or to a fireproof passageway independent of other means of exit from the building, opening on a road or street, or to an open area affording unobstructed passage to a road or street. All stairways that extend to the top story shall be continued to the roof. Provision shall be made for the adequate lighting of all stairways by artificial light.

For fireproof partition requirements, see § 79-f, subd. 5, *post*, and Industrial Code, Rule 501, p. 137, and Rule 509, p. 164, *post*; for stairway enclosure requirements, Industrial Code, Rule 2, p. 128, *post*.

4. Doors and doorways. All doors shall open outwardly. The width of the hallways and exit doors leading to the street, at the street-level, shall be not less than the aggregate width of all stairways leading to them. Every door leading to or opening on a stairway shall have an unobstructed width of at least forty-four inches.

5. Partitions. All partitions in the interior of buildings of fireproof construction shall be of incombustible material.

6. Openings to be enclosed. All elevator and dumb-waiter shafts, vent and light shafts, pipe and duct shafts, hoistways and all other vertical openings leading from one floor to another shall be enclosed throughout their height on all sides by enclosures of fireproof material. Every such enclosure shall have a roof of fireproof material and if the enclosure extends to the top story it shall be continued to three feet above the roof of the building and shall have at the top a skylight in a metal frame at least three-fourths of the area of the shaft or exterior window with metal frame and sash. The bottom of the enclosure shall be of fireproof material unless the opening extends to the cellar bottom. All openings in such enclosures shall be provided with fireproof doors, except that openings in the enclosures of vent and light shafts shall be provided either with fireproof doors or

with windows having metal frames and sash and wired glass where glass is used. [Section 79-a added by L. 1913, ch. 461.]

By § 351 of the Insurance Law it is made the duty of the state fire marshal to enforce all laws relating to exits from factories outside of New York City. Similar duties in New York City are by § 774 of the charter laid upon the fire commissioner.

For fireproof partition, floor and window requirements, see § 79-f, subds. 5-7, *post*, and Industrial Code, Rules 501-503, pp. 157-159, and Rules 509-511, pp. 164-168, *post*.

§ 79-b. Requirements for existing buildings.—No factory shall be conducted in any building heretofore erected unless such building shall conform to the following requirements:

1. **Required exits.** Every building over two stories in height shall be provided on each floor with at least two means of exit or escape from fire, remote from each other, one of which on every floor above the ground floor shall lead to or open on an interior stairway, which shall be enclosed as hereinafter provided, or to an exterior enclosed fireproof stairway. The other shall lead to such a stairway; or to a horizontal exit; or to an exterior screened stairway; or to fire-escapes on the outside of the building in buildings of five stories or less in height except that such fire-escapes shall not be accepted as required means of exit in such buildings or particular classes thereof where the industrial board finds that such fire-escapes would not in its opinion furnish adequate and safe means of escape for the occupants in case of fire; or to outside fire-escapes in buildings over five stories in height when, in the opinion of the industrial board the safety of the occupants of the building would not be endangered thereby. No point on any floor of such factory shall be more than one hundred feet distant from the entrance to one such means of exit. Whenever egress may be had from the roof to an adjoining or nearby structure, every stairway serving as a required means of exit shall be extended to the roof. All such stairways shall extend to the first story and lead to the street or to an unobstructed passageway leading to a street or road or to an open area affording safe passage to a street or road. [Subd. 1 added by L. 1913, ch. 461; *am'd* by L. 1914, ch. 182.]

2. **Stairway enclosures.** All interior stairways serving as required means of exit in buildings more than five stories in height and the landings, platforms and passageways connected therewith shall be enclosed on all sides by partitions of fire-resisting material extending continuously from the basement. Where the stairway extends to the top floor of the building such partitions shall extend to three feet above the roof. All openings in such partitions shall be provided with self-closing doors constructed of fire-resisting material except where such openings are in the exterior wall of the building. All such partitions and the doors provided for the openings therein shall be constructed in such manner as the industrial board may prescribe by its rules and regulations. The industrial board shall have power to adopt rules and regulations requiring the enclosure of stairways serving as required exits in buildings of five stories or less in height or in particular classes of such buildings wherever the board finds that because of the conditions existing in such buildings such requirement is necessary to secure the safety of the lives of the occupants thereof in case of fire. Whenever in the case of any existing buildings not over six stories in height, the industrial board shall find that the requirements of this and the last preceding subdivision relating to stairway enclosures can be dispensed with or modified without

endangering the safety of persons employed in such buildings, the industrial board shall have power to adopt such rules and regulations, as may, in its opinion, meet the conditions existing in such buildings, which rules and regulations may make said requirements inapplicable or modify the same in such manner as it may find to be adapted to securing the safety of persons employed therein. The industrial board shall have power to adopt rules and regulations, permitting, under conditions therein prescribed, as a substitute for the stairway enclosures herein required the use of partitions heretofore constructed in such manner and of such fire-resisting material as have heretofore been approved by the local authorities exercising supervision over the construction and alteration of buildings. In such cases, however, every opening in the enclosing partitions shall be provided with fire doors. [*Subd. 2 added by L. 1913, ch. 461; am'd by L. 1914, ch. 182.*]

For supplementary regulations and requirements, see Industrial Code, Rules 2, 3, pp. 128, 129, Rules 504-507, pp. 159-161, and Rules 512, 513, p. 168, *post*.

3. Doors. Where five or more persons are employed on any floor of a factory building every door on such floor leading to or opening on any means of exit shall open outwardly or be double swinging doors. All exit doors in the first story, including the doors of the vestibule, shall open outwardly. [*Subd. 3 added by L. 1913, ch. 461.*]

4. Fire-escapes. All outside fire-escapes shall be constructed of wrought-iron or steel and shall be so designed, constructed and erected as to safely sustain on all platforms, balconies and stairways a live load of not less than ninety pounds per square foot with a factor of safety of four. Wherever practicable, a continuous run or straight run stairway shall be used. On every floor above the first there shall be balconies or landings embracing one or more easily accessible and unobstructed openings at each floor level, connected with each other and with the ground by means of a stairway constructed as hereinafter provided and well fastened and secured. All openings leading to outside fire-escapes shall have an unobstructed width of at least two feet and an unobstructed height of at least six feet. Such openings shall extend to the floor level or within six inches thereof, shall be not more than seven inches above the floor of the fire-escape balcony, shall have metal frames or frames covered with metal and be provided with doors constructed of fireproof material and with wired glass where glass is used, except in cases where fire-escapes are hereafter erected on buildings constructed prior to October first, nineteen hundred and thirteen, of five stories or under in height, in which cases the provisions of subdivision five as to the use of steps to connect with the fire-escapes and as to the construction of openings leading to fire-escapes shall apply. All windows opening upon the course of the fire-escape shall be fire-proof windows. The balconies shall have an unobstructed width of at least four feet throughout their length and shall have a landing not less than twenty-four inches square at the head of every stairway. There shall be a passageway between the stairway opening and the side of the building at least eighteen inches wide throughout except where the stairways reach and leave the balconies at the ends or where double run stairways are used. The stairway opening of the balconies shall be of a size sufficient to provide clear headway and shall be guarded on the long side by an iron railing not less than three feet in height. Each balcony shall be surrounded by an iron railing not less than

three feet in height, thoroughly and properly braced. The balconies shall be connected by stairways not less than twenty-two inches wide, placed at an incline of not more than forty-five degrees, with steps of not less than eight-inch tread and not over eight-inch rise and provided with a hand-rail not less than three feet in height. The treads of such stairways shall be so constructed as to sustain a live load of four hundred pounds per step with a factor of safety of four. There shall be a similar stairway from the top floor balcony to the roof, except where the fire-escape is erected on the front of the building. A similar stairway shall also be provided from the lowest balcony to a safe landing place beneath, which stairway shall remain down permanently or be arranged to swing up and down automatically by counterbalancing weights. When not erected on the front of the building, safe and unobstructed egress shall be provided from the foot of the fire-escape by means of an open court or courts or a fireproof passageway having an unobstructed width of at least three feet throughout leading to the street, or by means of an open area having communication with the street; such fireproof passageway shall be adequately lighted at all times and the lights shall be so arranged as to ensure their reliable operation when through accident or other cause the regular factory lighting is extinguished. [Subd. 4 added by L. 1913, ch. 461; am'd by L. 1914, ch. 366.]

Relative to existing fire escapes, that do not serve as exits, see Industrial Code, Rule 380, p. 149, *post*; relative to fire escape openings, Rules, 507, 510, 513, pp. 180, 185, 188, *post*.

5. The provisions of subdivision four shall not apply where at the time this act takes effect there are outside fire-escapes with balconies on each floor of the building connected with stairways placed at an angle of not more than sixty degrees, provided that such existing outside fire-escapes have or shall be provided with the following:

A stairway leading from the top floor balcony to the roof, except where the fire-escapes are erected on the front of the building; a stairway not less than twenty-two inches wide from the lowest balcony to a safe landing place beneath, which stairway remains down permanently or is arranged to swing up and down by counterbalancing weights; a safe and unobstructed exit to the street from the foot of such fire-escapes as provided in subdivision four hereof; steps connecting the sill of every opening leading to the fire-escapes with the floor wherever such sill is more than three feet above the floor level; and all openings leading to the fire-escapes provided with windows having metal frames and sash or frames and sash covered with metal and with wired glass where glass is used, or with doors constructed in accordance with the requirements of subdivision four; and all windows opening upon the course of the fire-escapes provided with fireproof windows*: [Subd. 5, added by L. 1913, ch. 461; identically am'd by L. 1914, ch. 182, and L. 1914, ch. 366.]

Penalty for non-compliance: see Penal Law, § 1275, p. 171, *post*. Liability: see § 202, *post*. In a tenant-factory the owner alone is responsible for observance of this section: § 94, *post*.

By § 351 of the Insurance Law it is made the duty of the state fire marshal to enforce all laws relating to fire escapes outside of New York City. Prior to 1911 jurisdiction over the subject of fire escapes in New York City was vested exclusively in the local superintendent of buildings: *City of New York v. Trustees*

* Colon in original.

of Sailors' Snug Harbor, 85 App. Div. 355; *aff'd*, 180 N. Y. 527. See also Opinion of the Attorney-General, January 16, 1904. An amendment of the New York City charter of 1911, adding §§ 774 to 778-c, makes it the duty of the fire commissioner to enforce laws concerning the means of exit from factories.

§ 79-c. Additional requirements common to buildings heretofore and hereafter erected.—No factory shall be conducted in any building unless such building shall be so constructed, equipped and maintained in all respects as to afford adequate protection against fire to all persons employed therein, nor unless, in addition to the requirements of section seventy-nine-a in the case of a building hereafter erected or of section seventy-nine-b in the case of a building heretofore erected, such building shall conform to the following requirements:

1. Stairways. Stairways shall be provided with proper and substantial hand-rails. Where the stairway is enclosed by fireproof partitions the bottom of the enclosure shall be of fireproof material at least four inches thick unless the fireproof partitions extend to the cellar bottom. All stairways that extend to the top story shall be continued to the roof.

Compare Rule 2 of Industrial Code, p. 128, *post*.

2. Doors and windows. No door, window or other opening on any floor of a factory building shall be obstructed by stationary metal bars, grating or wire mesh. Metal bars, grating or wire mesh provided for any such door, window or other opening shall be so constructed as to be readily movable or removable from both sides in such manner as to afford the free and unobstructed use of such door, window or other opening as a means of egress in case of need and they shall be left unlocked during working hours. Every door opening on a stairway or other means of exit shall so open as not to obstruct the passageway. A clearly painted sign marked "exit" in letters not less than eight inches in height shall be placed over all exits leading to stairways and other means of egress, and in addition a red light shall be placed over all such exits for use in time of darkness.

3. Access to exits. There shall at all times be maintained continuous, safe, unobstructed passageways on each floor of the building, with an unobstructed width of at least three feet throughout their length leading directly to every means of egress, including outside fire-escapes and passenger elevators. All means of egress shall be maintained in an unobstructed condition. No door leading into or out of any factory or any floor thereof shall be locked, bolted or fastened during working hours.

4. Regulation by industrial board. The industrial board shall have power to adopt rules and regulations and establish requirements and standards for construction, equipment and maintenance of factory buildings or of particular classes of factory buildings and the means and adequacy of exit therefrom in order to carry out the purposes of this chapter in addition to the requirements of this section and of sections seventy-nine-a and seventy-nine-b, and not inconsistent therewith. [Section 79-c added by L. 1913, ch. 461.]

§ 79-d. Effect of foregoing provisions; inspection of buildings and approval of plans.—1. Effect of foregoing provisions. The requirements of sections seventy-nine-a, seventy-nine-b and seventy-nine-c are not in substitution for the requirements of any general or special law or local ordinance relating to the construction, equipment or maintenance of buildings, but the provisions

of such general and special laws and local ordinances shall be observed as well as the provisions of said sections. The provisions of sections seventy-nine-a, seventy-nine-b and seventy-nine-c shall supersede all provisions inconsistent therewith in any special law or local ordinance, and any provision of law or ordinance which gives power to any officer to establish requirements inconsistent with the provisions of such sections or the rules and regulations adopted by the industrial board under the provisions of this article.

2. Inspection of buildings. The officer of any city, village or town having power to inspect buildings therein for the purpose of determining their conformity to the requirements of law or ordinance governing the construction thereof, shall, whenever requested by the commissioner of labor, inspect any factory building therein and certify to the commissioner of labor in detail whether or not such building conforms to the requirements of this chapter and the rules and regulations of the industrial board, and such certificate shall be filed in the office of the commissioner of labor and shall be presumptive evidence of the truth of the matters therein stated.

3. Approval of plans. Before construction or alteration of a building in which it is intended to conduct one or more factories, the plans and specifications for such construction or alteration may be submitted to the commissioner of labor and filed in his office in such form and with such information as may be required by him or by the rules and regulations of the industrial board, and if such plans and specifications comply with the requirements of this chapter and the rules and regulations of the industrial board, he shall issue his certificate approving the same, which certificate shall bear the date when issued. Whenever any certificate shall be issued by the commissioner of labor under this section the particulars of such certificate shall be recorded and indexed in the records of his office. Before issuing any such certificate the commissioner of labor may request the officer of the city, village or town in which such building is located having power to examine and pass upon plans for construction of buildings with reference to their conformity to the requirements of law or ordinance governing the construction thereof, to examine such plans and specifications and to certify to the commissioner of labor whether or not such plans and specifications conform to the requirements of this chapter and the rules and regulations of the industrial board, and such officer shall thereupon make such examination and so certify in detail to the commissioner of labor and such certificate shall be filed in the office of the commissioner of labor and shall be presumptive evidence of the truth of the matters therein stated.

4. Certificate of compliance. After such construction or alteration shall be completed, the commissioner of labor shall, when requested by the owner or person filing such plans, ascertain by inspection or in the manner provided in subdivision two of this section, whether such building conforms to the requirements of this chapter and the rules and regulations of the industrial board; and if he finds that it does conform thereto, shall issue his certificate to that effect, which shall bear the date when issued. [Section 79-d added by L. 1913, ch. 461.]

§ 79-e. Limitation of number of occupants.—The number of persons who may occupy any factory building or portion thereof above the ground floor

shall be limited to such a number as can safely escape from such building by the means of exit provided in the building.

1. In buildings hereafter erected no more than fourteen persons shall be employed or permitted or suffered to work on any one floor for every full twenty-two inches in width of stairway conforming to the requirements for a required means of exit except as to extension to the roof, provided for such floor. No allowance shall be made for any excess in width of less than twenty-two inches.

2. In buildings heretofore erected no more than fourteen persons shall be employed or permitted or suffered to work on any one floor for every eighteen inches in width of stairway provided for such floor and conforming to the requirements for a required means of exit except as to extension to the roof, and for any excess in width of less than eighteen inches a proportionate increase in the number of occupants shall be allowed. Where the industrial board shall find that the safety of the occupants of any such building will not be endangered thereby, it may allow an increase in the number of occupants of any floor in such building to a number not greater than at the rate of twenty persons for every eighteen inches in width of such stairway provided for such floor, with a proportionate increase in the number of occupants for any excess in width of less than eighteen inches.

3. In any building for every additional sixteen inches over ten feet in height between two floors, one additional person may be employed on the upper of such floors for every eighteen inches in width of stairway leading therefrom to the lower of such floors in buildings heretofore erected, and one for every twenty-two inches in width of such stairway in buildings hereafter erected, provided that such stairways conform to the requirements for required means of exit except as to extension to the roof.

4. In any building, if any stairway has steps of the type known as "winders," a deduction of ten per centum shall be made in counting the capacity of such stairway.

5. In any building where the stairways and stairhalls are enclosed in fireproof partitions or where, at the time this act takes effect, the stairways and stairhalls are enclosed in partitions of brick, concrete, terra-cotta blocks or reinforced concrete constructed in a manner heretofore approved by the superintendent of buildings of the city of New York having jurisdiction if in such city, or elsewhere in the state, in a manner conforming to the rules and regulations to be adopted by the industrial board under the provisions of subdivision two of section seventy-nine-b, all openings in which enclosing partitions are or shall hereafter be provided with fireproof doors, in either of such cases so many additional persons may be employed on any floor as can occupy the enclosed stairhall or halls on that floor, allowing five square feet of unobstructed floor space per person.

6. In any building where a horizontal exit is provided on any floor such number of persons may be employed on such floor as can occupy the smaller of the two spaces on such floor on either side of the fireproof partitions or fire walls, or as can occupy the floor of an adjoining or near-by building which is connected with such floor by openings in the wall or walls between the buildings or by exterior balconies or bridges, in addition to the occupants of such connected floor in such adjoining or near-by building, allowing five square feet of unobstructed floor space per person, provided that the par-

titions or walls or balconies through which the horizontal exit is provided to such other portion of the same building or to such adjoining or near-by building shall have doorways of sufficient width to allow eighteen inches in width of opening for each fifty persons or fraction thereof so permitted to be employed on such floor in the case of horizontal exits heretofore constructed and twenty-two inches in the case of horizontal exits hereafter constructed.

7. In any building heretofore erected of fireproof construction, where any floor is subdivided by partitions of brick, terra cotta or concrete not less than four inches thick extending continuously from the fireproofing of the floor to the underside of the fireproofing of the floor above, with all openings protected by fireproof doors not less than forty-four inches nor more than sixty-six inches in width, and in which all the windows on such floor and on the two floors directly underneath are fireproof windows, such number of persons may be employed on such floor as can occupy the smaller of the two spaces on either side of such partitions, allowing five square feet of unobstructed floor space per person, provided there shall be on each side of said partitions at least one stairway conforming to the requirements for a required means of exit; and provided further that such partitions have doorways of sufficient width to allow eighteen inches in width of openings for each fifty persons or fraction thereof so permitted to occupy such floor, and that such doorways shall be kept unlocked and unobstructed during working hours. The provisions of this subdivision shall apply to any fireproof building heretofore erected which may hereafter be made to conform to the requirements of this section.

8. In any building the number of persons permitted to be employed on any one floor under the provisions of subdivisions one, two and three of this section may be increased fifty per centum where there is constructed, installed and maintained throughout the building an automatic sprinkler system conforming to the requirements of section eighty-three-b of this chapter and to the rules and regulations of the industrial board.

9. In any building, the number of persons who may be employed on any one floor shall in no event exceed such number as can occupy such floor, allowing thirty-six square feet of floor space per person if the building is not of fireproof construction, and thirty-two square feet of floor space per person if the building is of fireproof construction.

10. Where one floor is occupied by more than one tenant, the industrial board shall have power to make rules and regulations prescribing how many of the persons allowed to occupy such floor under the provisions of this section may occupy the space of each tenant.

11. Posting. In every factory, two stories or over in height, the commissioner of labor shall cause to be posted notices specifying the number of persons that may occupy each floor thereof in accordance with the provisions of this section. Every such notice shall be posted in a conspicuous place in every stairhall and workroom. If any one floor is occupied by more than one tenant, such notices shall be posted in the space occupied by each tenant, and shall state the number of persons that may occupy such space. Every such notice shall bear the date when posted. [Section 79-e added by L. 1913, ch. 461.]

§ 79-f. Meaning of terms.—The following terms when used in this article shall have the following meaning:

1. Fireproof construction. A building shall be deemed to be of fireproof construction if it conforms to the following requirements: All walls constructed of brick, stone, concrete or terra-cotta; all floors and roofs of brick, terra-cotta, or reinforced concrete placed between steel or reinforced concrete beams and girders; all the steel entering into the structural parts encased in at least two inches of fireproof material, excepting the wall columns, which must be encased in at least eight inches of masonry on the outside and four inches on the inside; all stairwells, elevator wells, public hallways and corridors enclosed by fireproof partitions; all doors, fireproof; all stairways, landings, hallways and other floor surfaces of incombustible material; no woodwork or other combustible material used in any partition, furring, ceiling or floor; and all window frames, doors and sash, trim and other interior finish of incombustible material; all windows shall be fireproof windows except that in buildings under seventy feet in height fireproof windows are required only when within thirty feet of another building or opening on a court or space less than thirty feet wide; except that in buildings under one hundred feet in height there may be wooden sleepers and floor finish and wooden trim, and except that in buildings under one hundred and fifty feet in height heretofore constructed there may be wooden sleepers, floor finish and trim and the windows need not be fireproof windows, excepting when such windows are within thirty feet of another building. [*Subd. 1 added by L. 1913, ch. 461.*]

For supplementary regulation, see Industrial Code, Rule 500, p. 156, *post*

2. Fireproof material is material which is incombustible and is capable of resisting the effect of fire in such manner and to such extent as to insure the safety of the occupants of the building. The industrial board shall determine and in its rules and regulations shall specify what materials are fireproof materials within the meaning hereof. The industrial board shall also determine and in its rules and regulations shall specify what materials, not being fireproof materials within the meaning hereof, are fire resisting materials. Fire resisting material, when required by any of the provisions of this chapter, shall conform to requirements of such rules and regulations. [*Subd. 2 added by L. 1913, ch. 461.*]

3. Incombustible material is material which will not burn or support combustion. [*Subd. 3 added by L. 1913, ch. 461.*]

4. A fire wall is a wall constructed of brick, concrete, terra-cotta blocks or reinforced stone concrete, and having at each floor level one or more openings each protected by fire doors so constructed as to prevent the spread of fire or smoke through the openings. In buildings of nonfireproof construction fire walls shall be at least twelve inches in thickness and shall extend continuously from the cellar floor through the entire building and at least three feet over the roof and be coped; except that walls heretofore erected not less than eight inches in thickness, but otherwise conforming to the requirements of this subdivision shall be considered fire walls within the meaning of this subdivision. No opening in such wall shall exceed sixty-six inches in width or sixty square feet in area, except that where openings not exceeding eight feet in width exist in fire walls heretofore erected, such walls may be considered fire walls within the meaning of this subdivision, and in the case of fire walls hereafter constructed no two openings in the

same wall and at the same floor level shall be nearer than forty feet from the center of one opening to the center of another. Every opening in a fire wall shall be protected by a fire door closing automatically on each side of the wall. At every opening in the fire wall there shall be an incombustible floor finish extending over the floor for the full thickness of the wall so as to completely separate the woodwork of the floors on each side of the fire wall. In fireproof buildings the fire walls shall comply with the foregoing requirements in all respects excepting that they may be of the thickness required by the provisions of this section with respect to fireproof partitions; such fire walls and fireproof partitions shall be continuous, from the cellar floor to the under side of the fireproof roof. [Subd. 4 added by L. 1913, ch. 461.]

5. Fireproof partitions shall be built of brick, concrete, reinforced concrete or terra cotta blocks. When built of brick or concrete they shall be not less than eight inches in thickness for the uppermost forty feet, and shall increase four inches in thickness for each additional lower forty feet or part thereof; or, when wholly supported by suitable steel framing at vertical intervals of not over forty feet, they may be eight inches in thickness throughout their entire height. When wholly supported at vertical intervals of not over twenty-five feet, and built of terra cotta blocks, they shall be not less than six inches in thickness and when so supported and built of reinforced stone concrete, they shall be not less than four inches in thickness. The supporting steel framework shall be properly encased on all sides by not less than two inches of fireproof material, securely fastened to the steel work. All openings in such partitions shall be provided with fire doors. [Subd. 5 added by L. 1913, ch. 461.]

For supplementary requirements, see Industrial Code, Rule 501, p. 157, and Rule 509, p. 164, *post*.

6. Fire doors. Fire doors shall be metal-covered doors, or doors of such other material as shall be specified in the rules and regulations of the industrial board. They shall be provided with self-closing devices and have incombustible sills. The industrial board shall determine, and in its rules and regulations shall specify, the material and mode and manner of construction and erection of such doors. [Subd. 6 added by L. 1913, ch. 461.]

For supplementary requirements, see Industrial Code, Rule 502, p. 157, and Rule 510, p. 165, *post*.

7. Fireproof windows shall be windows constructed of metal frames and sash or frames and sash covered with metal and provided with wired glass and of the automatic, self-closing type. [Subd. 7, added by L. 1913, ch. 461; *am'd by L. 1914, ch. 366.*]

For supplementary requirements, see Industrial Code, Rule 503, p. 158, and Rule 511, p. 167, *post*.

8. Exterior enclosed fireproof stairways shall be stairways completely enclosed from top to bottom by walls of fireproof material not less than eight inches thick extending from the sidewalk, court or yard level to the roof, and with walls extending above the roof so as to form a bulkhead. The stairway shall in all other respects conform to the requirements of this article in regard to enclosed stairways. There shall be no opening in any wall sepa-

rating the exterior enclosed fireproof stairway from the building. Access shall be provided to the stairway from every floor of the building by means of an outside balcony or vestibule of steel, iron or masonry. Every such balcony or vestibule shall have an unobstructed width of at least forty-four inches and shall be provided with a fireproof floor and a railing of incombustible material not less than three feet high. Access to such balconies from the building and to the stairway from the balconies, shall be by means of fire doors. The level of the balcony floor shall be not more than seven inches below the level of the door sill of the building. The doors shall be not less than forty-four inches wide and shall swing outward onto the balcony and inward from the balcony to the stairway, and shall be provided with locks or latches with visible fastenings requiring no key to open them in leaving the building. The landings in such stairway shall be of such width that the doors in opening into the stairway shall not reduce the free passageway of the landings to a width less than the width of the stairs. Every such stairway shall be provided with a proper lighting system which shall furnish adequate light and shall be so arranged as to ensure its reliable operation when, through accident or other cause, the regular factory lighting is extinguished. The balconies giving access to such stairways shall be open on at least one side upon an open space not less than one hundred square feet in area. [Subd. 8 added by L. 1913, ch. 461.]

9. Horizontal exit. A horizontal exit shall be the connection by means of one or more openings not less than forty-four inches wide, protected by fire doors, through a fire wall in any building, or through a wall or walls between two buildings, which doors shall continuously be unlocked and the opening unobstructed whenever any person is employed on either side of the opening. Exterior balconies and bridges not less than forty-four inches in width connecting two buildings and not having a gradient of more than one foot fall in six, may also be counted as horizontal exits when the doors opening out upon said balconies or bridges are fireproof doors and are level with the floors of the building, and when all doors of both buildings opening on such balconies or bridges are continuously kept unlocked and unobstructed whenever any person is employed on either side of the exit, and when such balconies or bridges are built of incombustible material and are capable of sustaining a live load of not less than ninety pounds per square foot with a factor of safety of four; and when such balconies or bridges are enclosed on all sides to a height of not less than six feet and on top and bottom by fireproof material, unless all windows or openings within thirty feet of such balconies in the connected buildings shall be encased in metal frames and sash and shall have wired glass where glass is used. In any case there shall be on each side of the wall or partition containing the horizontal exit and independent of said horizontal exit, at least one stairway conforming to the requirements for a required means of exit. [Subd. 9 added by L. 1913, ch. 461.]

10. Exterior screened stairways used as one of the required means of exit in buildings heretofore erected shall be built of incombustible material. The risers of the stairs shall be not more than seven and three-quarters inches in height and the treads not less than ten inches wide. On each floor there shall be a balcony connecting with the stairs. Access to the balconies shall

be by means of fire doors that shall open outwardly, so as not to obstruct the passageway, or slide freely, and shall extend to the floor level. All windows or other openings opening upon the course of such stairs shall be fireproof. The level of the balcony floor shall not be more than seven inches below the level of the door sill. The stairs shall continue from the roof to the ground level, and there shall be independent means of exit from the bottom of such stairs to the street or to an open court or to a fireproof enclosed passageway leading to the street or to an open area having communication with the street or road. The balconies and stairs shall be enclosed in a screen of incombustible material. [Subd. 10 added by L. 1913, ch. 461.]

11. The provisions of subdivisions four to nine inclusive of this section shall apply to all buildings hereafter erected and to all construction hereafter made in buildings heretofore erected. The industrial board shall adopt rules and regulations regulating construction heretofore made in buildings heretofore erected requiring compliance with such of the requirements of the said subdivisions or with such other or different requirements as said board may find to be reasonable and adequate to protect persons employed in such buildings against fire. [Subd. 11 added by L. 1913, ch. 461.]

§ 81. Protection of employees operating machinery; dust-creating machinery; lighting of factories and workrooms.—1. The owner or person in charge of a factory where machinery is used, shall provide, as may be required by the rules and regulations of the industrial board, belt shifters or other mechanical contrivances for the purpose of throwing on or off belts on pulleys. Whenever practicable, all machinery shall be provided with loose pulleys. Every vat and pan wherever set so that the opening or top thereof is at a lower level than the elbow of the operator or operators at work about the same shall be protected by a cover which shall be maintained over the same while in use in such manner as effectually to prevent such operators or other persons falling therein or coming in contact with the contents thereof, except that where it is necessary to remove such cover while any such vat or pan is in use, such vat or pan shall be protected by an adequate railing around the same. Every hydro-extractor shall be covered or otherwise properly guarded while in motion. Every saw shall be provided with a proper and effective guard. Every planer shall be protected by a substantial hood or covering. Every hand-planer or jointer shall be provided with a proper and effective guard. All cogs and gearing shall be boxed or cased either with metal or wood. All belting within seven feet of the floors shall be properly guarded. All revolving shafting within seven feet of the floors shall be protected on its exposed surface by being encased in such a manner as to effectively prevent any part of the body, hair or clothing of the operators or other persons from coming in contact with such shafting. All set-screws, keys, bolts and all parts projecting beyond the surface of revolving shafting shall be countersunk or provided with suitable covering, and machinery of every description shall be properly guarded and provided with proper safety appliances or devices. All machines, machinery, apparatus, furniture and fixtures shall be so placed and guarded in relation to one another as to be safe for all persons. Whenever any danger exists which requires any special care as to the character and condition of the clothing of the persons employed thereabouts, or which requires the use of special clothing or guards, the

industrial board may make rules and regulations prescribing what shall be used or worn for the purpose of guarding against such danger and regulating the provision, maintenance and use thereof. No person shall remove or make ineffective any safeguard or safety appliance or device around or attached to machinery, vats or pans, unless for the purpose of immediately making repairs thereto or adjustment thereof, and any person who removes or makes ineffective any such safeguard, safety appliance or device for a permitted purpose shall immediately replace the same when such purpose is accomplished. It shall be the duty of the employer and of every person exercising direction or control over the person who removes such safeguard, safety appliance or device, or over any person for whose protection it is designed to see that a safeguard or safety appliance or device that has been removed is promptly and properly replaced. All fencing, safeguards, safety appliances and devices must be constantly maintained in proper condition. When in the opinion of the commissioner of labor a machine or any part thereof is in a dangerous condition or is not properly guarded or is dangerously placed, the use thereof shall be prohibited by the commissioner of labor and a notice to that effect shall be attached thereto. Such notice shall not be removed except by an authorized representative of the department of labor, nor until the machinery is made safe and the required safeguards or safety appliances or devices are provided, and in the meantime such unsafe or dangerous machinery shall not be used. The industrial board may make rules and regulations regulating the installation, position, operation, guarding and use of machines and machinery in operation in factories, the furnishing and use of safety devices and safety appliances for machines and machinery and of guards to be worn upon the person, and other cognate matters, whenever it finds such regulations necessary in order to provide for the prevention of accidents in factories. [*Subd. 1 am'd by L. 1913, ch. 286.*]

For discussion of replacement of safeguards "promptly" or "immediately" see *Pockrass v. Kaplan*, 163 App. Div. 209.

2. All grinding, polishing or buffing wheels used in the course of the manufacture of articles of the baser metals shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove all matter thrown off such wheels in the course of their use. Such fan shall be kept running constantly while such grinding, polishing or buffing wheels are in operation; except that in case of wet-grinding it is unnecessary to comply with this provision unless required by the rules and regulations of the industrial board. All machinery creating dust or impurities shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove such dust or impurities; such fan shall be kept running constantly while such machinery is in use; except where, in case of wood-working machinery, the industrial board shall decide that it is unnecessary for the health and welfare of the operatives. [*Subd. 2 am'd by L. 1913, ch. 286.*]

3. All passageways and other portions of a factory, and all moving parts of machinery which are not so guarded as to prevent accidents, where, on or about which persons work or pass or may have to work or pass in emergencies, shall be kept properly and *and sufficiently lighted during working hours. The halls and stairs leading to the workrooms shall be properly and

* So in original.

adequately lighted, and a proper and adequate light shall be kept burning by the owner or lessee in the public hallways near the stairs, upon the entrance floor and upon the other floors on every workday in the year, from the time when the building is open for use in the morning until the time it is closed in the evening, except at times when the influx of natural light shall make artificial light unnecessary. Such lights shall be so arranged as to insure their reliable operation when through accident or other cause the regular factory lighting is extinguished. [*Subd. 3 am'd by L. 1913, ch. 286.*]

Cf. § 168, post.

4. All workrooms shall be properly and adequately lighted during working hours. Artificial illuminants in every workroom shall be installed, arranged and used so that the light furnished will at all times be sufficient and adequate for the work carried on therein, and so as to prevent unnecessary strain on the vision or glare in the eyes of the workers. The industrial board may make rules and regulations to provide for adequate and sufficient natural and artificial lighting facilities in all factories. [*Subd. 4 added by L. 1913, ch. 286.*] [*Section 81 am'd by L. 1909, ch. 299; and L. 1910, ch. 106; am'd and subdivided by L. 1913, ch. 286.*]

Non-compliance with the section renders the master liable in case of injury to employees: § 202, *post*.

In a tenant-factory the owner alone is responsible for lighting of halls and stairs: § 94, *post*.

Where it is practicable to guard a machine and danger from its remaining unguarded should be reasonably anticipated the provisions of the section are mandatory and the burden of proving that it is impracticable to guard a machine is upon the employer: *Scott v. International Paper Co.*, 204 N. Y. 49 (1912). The burden of proof as to assumption of risk in case of failure to comply with the statute is upon the employer: *Fitzwater v. Warren*, 206 N. Y. 855.

In a case brought under this section, § 202-a, *post*, relative to contributory negligence, was held to apply: *Hubbell v. Pioneer Paper Co.*, 160 App. Div. 856.

§ 83-a. Fire alarm signal systems and fire drills.—1. Every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor shall be equipped with a fire alarm signal system with a sufficient number of signals clearly audible to all occupants thereof. The industrial board may make rules and regulations prescribing the number and location of such signals. Such system shall be installed by the owner or lessee of the building and shall permit the sounding of all the alarms within the building whenever the alarm is sounded in any portion thereof. Such system shall be maintained in good working order. No person shall tamper with, or render ineffective any portion of said system except to repair the same. It shall be the duty of whoever discovers a fire to cause an alarm to be sounded immediately. [*Subd. 1 added by L. 1913, ch. 203.*]

2. In every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor, a fire drill which will conduct all the occupants of such building to a place of safety and in which all the occupants of such building shall participate simultaneously shall be conducted at least once a month.

In the city of New York the fire commissioner of such city, and in all other parts of the state, the state fire marshal shall cause to be organized and shall supervise and regulate such fire drills, and shall make rules, regula-

tions and special orders necessary or suitable to each situation and in the case of buildings containing more than one tenant, necessary or suitable to the adequate co-operation of all the tenants of such building in a fire drill of all the occupants thereof. Such rules, regulations and orders may prescribe upon whom shall rest the duty of carrying out the same. Such special orders may require posting of the same or an abstract thereof. A demonstration of such fire drill shall be given upon the request of an authorized representative of the fire department of the city, village or town in which the factory is located, and, except in the city of New York, upon the request of the state fire marshal or any of his deputies or assistants. [*Subd. 2 am'd by L. 1913, ch. 203.*]

3. In the city of New York the fire commissioner of such city, and elsewhere, the state fire marshal is charged with the duty of enforcing this section. [*Section 83-a added by L. 1912, ch. 330; am'd and subdivided by L. 1913, ch. 203.*]

For supplementary regulations, see Industrial Code, Rule 375, pp. 141-140, *post*.

The relative responsibilities of landlord and tenant are defined in an Opinion of the Attorney-General, February 16, 1914. Persons refusing to obey rules and regulations are subject to prosecution under § 1275 of the Penal Law, p. 171 (Opinions of the Attorney-General, 1914, p. 42).

§ 83-b. Automatic sprinklers.—In every factory building over seven stories or over ninety feet in height in which wooden flooring or wooden trim is used and more than two hundred people are regularly employed above the seventh floor or more than ninety feet above the ground level of such building, the owner of the building shall install an automatic sprinkler system approved as to form and manner in the city of New York by the fire commissioner of such city, and elsewhere, by the state fire marshal. Such installation shall be made within one year after this section takes effect, but the fire commissioner of the city of New York in such city and the state fire marshal elsewhere may, for good cause shown, extend such time for an additional year. A failure to comply with this section shall be a misdemeanor as provided by section twelve hundred and seventy-five of the penal law and the provisions hereof shall also be enforced in the city of New York by the fire commissioner of such city in the manner provided by title three of chapter fifteen of the Greater New York charter, and elsewhere by the state fire marshal in the manner provided by article ten-a of the insurance law. [*Added by L. 1912, ch. 332.*]

Enactment of this section did not repeal local requirements relative to automatic sprinklers in buildings other than those described in this section: *People v. Kaye*, 212 N. Y. 407.

§ 83-c. Fireproof receptacles; gas jets; smoking.—1. Every factory shall be provided with properly covered fireproof receptacles, the number, style and location of which shall be approved in the city of New York by the fire commissioner, and elsewhere, by the commissioner of labor. There shall be deposited in such receptacles all inflammable waste materials, cuttings and rubbish. No waste materials, cuttings or rubbish shall be permitted to accumulate on the floors of any factory but shall be removed therefrom not less than twice each day. All such waste materials, cuttings and rubbish shall be entirely removed from a factory building at least once in each

day, except that baled waste material may be stored in fireproof enclosures provided that all such baled waste material shall be removed from such building at least once in each month. [Subd. 1 added by L. 1912, ch. 329; am'd by L. 1913, ch. 194.]

2. All gas jets or lights in factories shall be properly enclosed by globes, wire cages or otherwise properly protected in a manner approved in the city of New York by fire commissioner of such city, and elsewhere, by the commissioner of labor. [Subd. 2 added by L. 1912, ch. 329.]

3. No person shall smoke in any factory. A notice of such prohibition stating the penalty for violation thereof shall be posted in every entrance hall and every elevator car, and in every stairhall and room on every floor of such factory in English and also in such other language or languages as the fire commissioner of the city of New York in such city, and elsewhere, the state fire marshal, shall direct. The fire commissioner of the city of New York in such city, and elsewhere, the state fire marshal shall enforce the provisions of this subdivision. [Subd. 3 added by L. 1912, ch. 329; am'd by L. 1913, ch. 194.]

§ 84. Cleanliness of rooms.—Every room in a factory and the floors, walls, ceilings, windows and every other part thereof and all fixtures therein shall at all times be kept in a clean and sanitary condition. The walls and ceilings of each room in a factory shall be lime washed or painted, except when properly tiled or covered with slate or marble with a finished surface. Such lime wash or paint shall be renewed whenever necessary as may be required by the commissioner of labor. Floors shall, at all times, be maintained in a safe condition. No person shall spit or expectorate upon the walls, floors or stairs of any building used in whole or in part for factory purposes. Sanitary cuspidors shall be provided, in every workroom in a factory in sufficient numbers. Such cuspidors shall be thoroughly cleaned daily. Suitable receptacles shall be provided and used for the storage of waste and refuse; such receptacles shall be maintained in a sanitary condition. [As am'd by L. 1910, ch. 114 and L. 1913, ch. 82.]

In tenant-factories responsibility for cleanliness of halls, etc., is placed upon the owner by § 94, *post*.

Compare special requirements for laundries in § 92; for bakeries in §§ 112-114; and for mercantile establishments in §§ 168, 168-a, *post*. For bakeries compare also Industrial Code, Rules 300-347, pp. 135-140, *post*.

§ 84-a. Cleanliness of factory buildings.—Every part of a factory building and of the premises thereof and the yards, courts, passages, areas or alleys connected with or belonging to the same, shall be kept clean, and shall be kept free from any accumulation of dirt, filth, rubbish or garbage in or on the same. The roof, passages, stairs, halls, basements, cellars, privies, water-closets, cesspools, drains and all other parts of such building and the premises thereof shall at all times be kept in a clean, sanitary and safe condition. The entire building and premises shall be well drained and the plumbing thereof at all times kept in proper repair and in a clean and sanitary condition. [Added by L. 1913, ch. 198.]

§ 85. Size of rooms.—No more employees shall be required or permitted to work in a room in a factory between the hours of six o'clock in the morning and six o'clock in the evening than will allow to each of such employees not less than two hundred and fifty cubic feet of air space; and, unless by

a written permit of the commissioner of labor, not less than four hundred cubic feet for each employee, so employed between the hours of six o'clock in the evening and six o'clock in the morning, provided such room is lighted by electricity at all times during such hours, while persons are employed therein.

Compare requirement as to height of ceilings in bakeries, §§ 112, 114 and 116, *post*.

§ 86. Ventilation.—1. The person operating every factory shall provide, in each workroom thereof, proper and sufficient means of ventilation by natural or mechanical means, or both, as may be necessary, and shall maintain proper and sufficient ventilation and proper degrees of temperature and humidity in every workroom thereof at all times during working hours. [*Subd. 1, am'd by L. 1913, ch. 196; L. 1914, ch. 366.*]

2. If dust, gases, fumes, vapors, fibers or other impurities are generated or released in the course of the business carried on in any workroom of a factory, in quantities tending to injure the health of the operatives, the person operating the factory, whether as owner or lessee of the whole or of a part of the building in which the same is situated, or otherwise, shall provide suction devices that shall remove said impurities from the workroom, at their point of origin where practicable, by means of proper hoods connected to conduits and exhaust fans of sufficient capacity to remove such impurities, and such fans shall be kept running constantly while such impurities are being generated or released. If, owing to the nature of the manufacturing process carried on in a factory workroom, excessive heat be created therein the person or persons operating the factory as aforesaid shall provide, maintain, use and operate such special means or appliances as may be required to reduce such excessive heat. [*Subd. 2 added by L. 1913, ch. 196.*]

3. The industrial board shall have power to make rules and regulations for and fix standards of ventilation, temperature and humidity in factories and may prescribe the special means, if any, required for removing impurities or for reducing excessive heat, and the machinery, apparatus or appliances to be used for any of said purposes, and the construction, equipment, maintenance and operation thereof, in order to effectuate the purposes of this section. [*Subd. 3 added by L. 1913, ch. 196.*]

4. If any requirement of this section or any rule or regulation of the industrial board made under the provisions thereof shall not be complied with, the commissioner of labor shall issue or cause to be issued an order directing compliance therewith by the person whose duty it is to comply therewith within thirty days after the service of such order. Such person shall, in case of failure to comply with the requirements of such order, forfeit to the people of the state fifteen dollars for each day during which such failure shall continue after the expiration of such thirty days, to be recovered by the commissioner of labor. The liability to such penalty shall be in addition to the liability of such person to prosecution for a misdemeanor as provided by section twelve hundred and seventy-five of the penal law. [*Subd. 4, added by L. 1913, ch. 196.*]

5. When the commissioner of labor shall issue, or cause to be issued, an order specified in subdivision four hereof, he may in such order require plans

and specifications to be filed for any machinery or apparatus to be provided or altered, pursuant to the requirements of such order. In such case, before providing, or making any change or alteration in any machinery or apparatus for any of the purposes specified in this section, the person upon whom such order is served shall file with the commissioner of labor plans and specifications therefor, and shall obtain the approval of such plans and specifications by the commissioner of labor before providing or making any change or alteration in any such machinery or apparatus. [Subd. 5, added by L. 1913, ch. 196.]

§ 94, *post*, makes the owner as well as occupant in a tenant-factory responsible for observance of this section and the owner of a factory building is liable for a violation of this section even though by the terms of a lease a tenant agrees to comply with the law: *People ex rel. Williams v. Eno*, 134 App. Div. 527.

Compare special requirements for bakeries, §§ 112, 113, 114, 116 and 117, *post*.

§ 87. **Accidents to be reported.**—The person in charge of any factory shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L. 1910, ch. 155.*]

Compare § 20-a, *ante*, building accidents, and § 126, *post*, accidents in mines and quarries; also §§ 47, 66 and 94 of the Public Service Commissions Law (Ch. 48 of the Consolidated Laws) and §§ 96 and 111 of the Workmen's Compensation Law, pp. 206, 209, *post*.

§ 88. **Drinking water, washrooms and dressing rooms.**—1. In every factory there shall be provided at all times for the use of employees, a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water used for domestic purposes, or, from a spring or well or body of pure water; if such drinking water be placed in receptacles in the factory, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals.

2. In every factory there shall be provided and maintained for the use of employees suitable and convenient washrooms, separate for each sex, adequately equipped with washing facilities consisting of sinks or stationary basins provided with running water or with tanks holding an adequate supply of clean water. Every washroom shall be provided with means for artificial illumination and with adequate means of ventilation. All washrooms and washing facilities shall be constructed, lighted, heated, ventilated, arranged and maintained according to rules and regulations adopted with reference thereto by the industrial board. In all factories where lead,

arsenic or other poisonous substances or injurious or noxious fumes, dust or gases are present as an incident or result of the business or processes conducted by such factory there shall be provided washing facilities which shall include hot water and soap and individual towels.

3. Where females are employed the person operating the factory shall provide dressing or emergency rooms for their use; each such room shall have at least one window opening to the outer air and shall be enclosed by means of solid partitions or walls. In every factory in which more than ten women are employed there shall be provided one or more separate dressing rooms in such numbers as required by the rules and regulations of the industrial board and located in such place or places as required by such rules and regulations, having an adequate floor space in proportion to the number of employees, to be fixed by the rules and regulations of the industrial board, but the floor space of every such dressing room shall in no event be less than sixty square feet; each dressing room shall be separated from any water closet compartment by adequate partitions and shall be provided with adequate means for artificial illumination; each dressing room shall be provided with suitable means for hanging clothes and with a suitable number of seats. All dressing rooms shall be enclosed by means of solid partitions or walls, and shall be constructed, heated, ventilated, lighted and maintained in accordance with such rules and regulations as may be adopted by the industrial board with reference thereto. [*Subd. 3, am'd by L. 1914, ch. 366.*] [*Section 88 am'd by L. 1910, ch. 229; and L. 1912, ch. 336; am'd and subdivided by L. 1913, ch. 340.*]

In a tenant-factory the owner must provide water-closets, and the necessary plumbing and water to enable occupants to comply with all the provisions of this section: § 94, *post*.

Compare special requirements for bakeries, §§ 112 and 113; and for mercantile establishments, §§ 168-168-f, *post*.

With this section note also the following regulations from chapter 7 of the Sanitary Code established by the Public Health Council:

Regulation 2. Common towel forbidden. No person, firm or corporation owning, in charge of, or in control of any lavatory or wash room in any hotel, lodging-house, restaurant, factory, store, office building, railway or trolley station, or public conveyance by land or water shall provide in or about such lavatory or wash room any towel for common use. The term "common use" in this regulation shall be construed to mean for use by more than one person without cleansing.

This regulation shall take effect throughout the state of New York, except in the city of New York, on the first day of March, 1915.

Regulation 3. Common drinking cups and drinking and eating utensils forbidden. The use of common drinking cups, and of common drinking or eating utensils in any public place or public institution, or in any hotel, saloon, lodging-house, theatre, factory, school or public hall; or in any railway or trolley car or ferry boat; or in any railway or trolley station or ferry house; or the furnishing of any such common drinking cup or drinking or eating utensil for common use in any such place is prohibited.

The term "common use" in this regulation shall be construed to mean for use by more than one person without adequate cleansing.

This regulation shall take effect throughout the state of New York, except in the city of New York, on the first day of March, 1915.

§ 88-a. Water closets.—1. In every factory there shall be provided suitable and convenient water closets separate for each sex, in such number and located in such place or places as required by the rules and regulations of the industrial board. All water closets shall be maintained inside the fac-

tory except where, in the opinion of the commissioner of labor it is impracticable to do so. [Subd. 1 added by L. 1913, ch. 340.]

2. There shall be separate water closet compartments for females, to be used by them exclusively, and notice to that effect shall be painted on the outside of such compartments. The entrance to every water closet used by females shall be effectively screened by a partition or vestibule. Where water closets for males and females are in adjoining compartments, there shall be solid plastered or metal covered partitions between the compartments extending from the floor to the ceiling. Whenever any water closet compartments open directly into the workroom exposing the interior, they shall be screened from view by a partition or a vestibule. The use of curtains for screening purposes is prohibited. [Subd. 2 added by L. 1913, ch. 340.]

3. The use of any form of trough water closet, latrine or school sink within any factory is prohibited. All such trough water closets, latrines or school sinks shall, before the first of October, nineteen hundred and fourteen, be completely removed and the place where they were located properly disinfected under the direction of the department of labor. Such appliances shall be replaced by proper individual water closets, placed in water closet compartments, all of which shall be constructed and installed in accordance with rules and regulations to be adopted by the industrial board. [Subd. 3 added by L. 1913, ch. 340.]

4. Every existing water closet and urinal inside any factory shall have a basin of enameled iron or earthenware, and shall be flushed from a separate water-supplied cistern or through a flushometer valve connected in such manner as to keep the water supply of the factory free from contamination. All woodwork enclosing water closet fixtures shall be removed from the front of the closet and the space underneath the seat shall be left open. The floor or other surface beneath and around the closet shall be maintained in good order and repair and all the woodwork shall be kept well painted with a light color paint. All existing water closet compartments shall have windows or suitable ducts leading to the outer air and shall be otherwise ventilated in accordance with rules and regulations adopted for that purpose by the industrial board. Such compartments shall be provided with means for artificial illumination and the enclosure of each compartment shall be kept free from all obscene writing or marking. [Subd. 4 added by L. 1913, ch. 340; am'd by L. 1914, ch. 366.]

5. All water closets, urinals and water closet compartments hereafter installed in a factory, including those provided to replace existing fixtures, shall be properly constructed, installed, ventilated, lighted and maintained in accordance with such rules and regulations as may be adopted by the industrial board. [Subd. 5, added by L. 1913, ch. 340.]

6. All water closet compartments, and the floors, walls, ceilings and surface thereof, and all fixtures therein, and all water closets and urinals shall at all times be kept and maintained in a clean and sanitary condition. Where the water supply to water closets or urinals is liable to freeze, the water closet compartment shall be properly heated so as to prevent freezing, or the supply and flush pipes, cisterns and traps and valves shall be effectively covered with wool felt or hair felt, or other adequate covering. [Subd. 6 added by L. 1913, ch. 340.]

7. All water closets shall be constructed, lighted, ventilated, arranged and maintained according to rules and regulations adopted with reference thereto by the industrial board. [*Subd. 7 added by L. 1913, ch. 340.*]

Compare requirements for foundries, § 97; for bakeries, §§ 112, 113; for mercantile establishments, § 168-e.

§ 89. Time allowed for meals.— In each factory at least sixty minutes shall be allowed for the noon-day meal, unless the commissioner of labor shall permit a shorter time. Such permit must be in writing and conspicuously posted in the main entrance of the factory, and may be revoked at any time. Where employees are required or permitted to work overtime for more than one hour after six o'clock in the evening, they shall be allowed at least twenty minutes to obtain a lunch, before beginning to work overtime.

Compare requirements for mercantile establishments, § 161.

§ 89-a. Prohibition against eating meals in certain workrooms.— No employee shall take or be permitted to take any food into a room or apartment in a factory, mercantile establishment, mill or workshop, commercial institution or other establishment or working place where lead, arsenic or other poisonous substances or injurious or noxious fumes, dust or gases exist in harmful conditions or are present in harmful quantities as an incident or result of the business conducted by such factory, commercial establishment, mill or workshop, commercial institution or other establishment or working place; and notice to the foregoing effect shall be posted in each such room, or apartment. No employee, unless his presence is necessary for the proper conduct of the business, shall remain in any such room, apartment or enclosure during the time allowed for meals, and suitable provision shall be made and maintained by the employer for enabling employees to take their meals elsewhere in such establishment. [*Added by L. 1912, ch. 336.*]

Compare § 160, *post*.

§ 90. Inspection of factory buildings.— The commissioner of labor, or other competent person designated by him, upon request, shall examine any factory outside of the cities of New York and Brooklyn, to determine whether it is in a safe condition. If it appears to him to be unsafe, he shall immediately notify the owner, agent or lessee thereof, specifying the defects, and require such repairs and improvements to be made as he may deem necessary. If the owner, agent or lessee shall fail to comply with such requirement, he shall forfeit to the people of the state the sum of fifty dollars, to be recovered by the commissioner of labor in his name of office.

In a tenant-factory the owner alone is responsible for observance of this section: § 94, *post*.

§ 92. Laundries.— A shop, room or building where one or more persons are employed in doing public laundry work by way of trade or for purposes of gain is a factory within the meaning of this chapter, and shall be subject to the visitation and inspection of the commissioner of labor and the provisions of this chapter in the same manner as any other factory. No such public laundry work shall be done in a room used for a sleeping or living room. All such laundries shall be kept in a clean condition and free from vermin and all impurities of an infectious or contagious nature. This section shall

not apply to any female engaged in doing custom laundry work at her home for a regular family trade.

A hotel laundry is not a public laundry: Opinions of Attorney-General, March 5 and September 28, 1906.

§ 93. Prohibited employment of women and children.—1. No child under the age of sixteen years shall be employed or permitted to work in operating or assisting in operating any of the following machines: Circular or band saws, woodshapers, woodjointers, planers, sandpaper or wood polishing machinery; picker machines or machines used in picking wool, cotton, hair or any upholstery material; paper lace machines; burnishing machines in any tannery or leather manufactory; job or cylinder printing presses having motive power other than foot; wood-turning or boring machinery; drill presses; metal or paper cutting machines; corner staying machines in paper box factories; stamping machines used in sheet metal and tinware manufacturing or in washer and nut factories; machines used in making corrugating rolls; steam boilers; dough brakes or cracker machinery of any description; wire or iron straightening machinery; rolling mill machinery; power punches or shears; washing, grinding or mixing machinery; calendar rolls in rubber manufacturing; or laundering machinery; or in operating or assisting in operating any other machines or machinery which may be found by the industrial board to be dangerous and specified as such from time to time in rules and regulations adopted by such board. [*Subd. 1 am'd by L. 1909, ch. 299; L. 1910, ch. 107; L. 1913, ch. 464.*]

2. No child under the age of sixteen years shall be employed or permitted to work at adjusting or assisting in adjusting any belt to any machinery, oiling or assisting in oiling, wiping or cleaning machinery; or in any capacity in preparing any composition in which dangerous or poisonous acids are used; or in the manufacture or packing of paints, dry colors, or red or white lead; or dipping or dyeing matches; or in the manufacture, packing or storing of powder, dynamite, nitroglycerine, compounds, fuses, or other explosives; or in or about any distillery, brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped, or bottled; and no female under the age of sixteen shall be employed or permitted to work in any capacity where such employment compels her to remain standing constantly. No child under the age of sixteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers. No person under the age of eighteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers running at a speed of over two hundred feet a minute. No male person under eighteen years or woman under twenty-one years of age shall be permitted or directed to clean machinery while in motion. No male child under the age of eighteen years, nor any female, shall be employed in any factory in this state in operating or using any emery, tripoli, rouge, corundum, stone, carborundum or any abrasive, or emery polishing or buffing wheel, where articles of the baser metals or of iridium are manufactured. [*Subd. 2 am'd by L. 1909, ch. 299; L. 1913, ch. 464.*]

3. In addition to the cases provided for in the foregoing subdivisions, the industrial board, when as a result of its investigations it finds that any par-

ticular trade, process of manufacture, or occupation, or particular method of carrying on any trade, process of manufacture, or occupation, is dangerous or injurious to the health of minors under eighteen years of age employed therein, shall have power to adopt rules and regulations prohibiting or regulating the employment of such minors therein. [Subd. 3 added by L. 1913, ch. 464.]

4. No female shall be employed or permitted to work in any brass, iron or steel foundry, at or in connection with the making of cores where the oven in which the cores are baked is located and is in operation in the same room or space in which the cores are made. The erection of a partition separating the oven from the space where the cores are made shall not be sufficient unless the said partition extends from the floor to the ceiling, and the partition is so constructed and arranged, and any openings therein so protected that the gases and fumes from the core oven will not enter the room or space in which the women are employed. The industrial board shall have power to adopt rules and regulations regulating the construction, equipment, maintenance and operation of core rooms and the size and weight of cores that may be handled by women, so as to protect the health and safety of women employed in core rooms. [Subd. 4 added by L. 1913, ch. 464.]

Compare § 181, *post*, relative to employment of children or women in mines or quarries.

Children may not assume the obvious risks of operating dangerous machinery contrary to this section, violation of which is *prima facie* evidence of negligence. *Gallenkamp v. Garvin Machine Co.*, 179 N. Y. 588, reversing 91 App. Div. 141, on dissenting opinion below; and *Rahn v. Standard Optical Co.*, 110 App. Div. 501. Compare also § 202, *post*.

§ 93-a. Employment of females after childbirth prohibited.—It shall be unlawful for the owner, proprietor, manager, foreman or other person in authority of any factory, mercantile establishment, mill or workshop to knowingly employ a female or permit a female to be employed therein within four weeks after she has given birth to a child. [Added by L. 1912, ch. 331.]

§ 93-b. Period of rest at night for women.—In order to protect the health and morals of females employed in factories by providing an adequate period of rest at night no woman shall be employed or permitted to work in any factory in this state before six o'clock in the morning or after ten o'clock in the evening of any day. [Added by L. 1913, ch. 83.]

The section is constitutional: *People v. Charles Schweinler Press*, § 163 App. Div. 620; 214 N. Y. 395; but compare note to § 77, *ante*.

§ 94. Tenant-factories.—A tenant-factory within the meaning of the term as used in this chapter is a building, separate parts of which are occupied and used by different persons, companies or corporations, and one or more of which parts is so used as to constitute in law a factory. The owner, whether or not he is also one of the occupants, instead of the respective lessees or tenants, shall be responsible for the observance and punishable for the non-observance of the following provisions of this article, anything in any lease to the contrary notwithstanding,—namely, the provisions of sections seventy-nine, eighty, eighty-two, eighty-three, eighty-six, ninety and ninety-one, and the provisions of section eighty-one with respect to the lighting of halls and stairways; except that the lessees or tenants also shall be responsible for the observance and punishable for the nonobservance of the provisions of sections

seventy-nine, eighty, eighty-six and ninety-one within their respective holdings. The owner of every tenant-factory shall provide each separate factory therein with water-closets in accordance with the provisions of section eighty-eight, and with proper and sufficient water and plumbing pipes and a proper and sufficient supply of water to enable the tenant or lessee thereof to comply with all the provisions of said section. But as an alternative to providing water-closets within each factory as aforesaid, the owner may provide in the public hallways or other parts of the premises used in common, where they will be at all times readily and conveniently accessible to all persons employed on the premises not provided for in accordance with section eighty-eight, separate water-closets for each sex, of sufficient numbers to accommodate all such persons. Such owner shall keep all water-closets located as last specified at all times provided with proper fastenings, and properly screened, lighted, ventilated, clean, sanitary and free from all obscene writing or marking. Outdoor water-closets shall only be permitted where the commissioner of labor shall decide that they are necessary or preferable, and they shall then be provided in all respects in accordance with his directions. The owner of every tenant-factory shall keep the entire building well drained and the plumbing thereof in a clean and sanitary condition; and shall keep the cellar, basement, yards, areas, vacant rooms and spaces, and all parts and places used in common in a clean, sanitary and safe condition, and shall keep such parts thereof as may reasonably be required by the commissioner of labor properly lighted at all hours or times when said building is in use for factory purposes. The term "owner" as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in charge of the property. The lessee or tenant of any part of a tenant-factory shall permit the owner, his agents and servants, to enter and remain upon the demised premises whenever and so long as may be necessary to comply with the provisions of law, the responsibility for which is by this section placed upon the owner; and his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings to recover possession of real property, as provided in the code of civil procedure. And whenever by the terms of a lease any lessee or tenant shall have agreed to comply with or carry out any of such provisions, his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings as aforesaid. Except as in this article otherwise provided the person or persons, company or corporation conducting or operating a factory whether as owner or lessee of the whole or of a part of the building in which the same is situated or otherwise, shall be responsible for the observance and punishable for the nonobservance of the provisions of this article, anything in any lease or agreement to the contrary notwithstanding.

Compare notes to §§ 79, 86, *ante*.

Owner and tenant are joint tort feorsors as to injury of employee of tenant-factory by appliances furnished by owner and used in common by both: *Larkin Co. v. Terminal Warehouse Co.*, 161 App. Div. 777. Owner or lessee of tenant-factory is liable under the sections for the safety of employees in a sanitary, and not in a mechanical sense: *Stowell v. Owen & Co.*, 160 App. Div. 469.

§ 95. Unclean factories.—If the commissioner of labor finds evidence of contagious disease in any factory he shall affix to any articles therein exposed to such contagion a label containing the word "unclean" and shall notify

the local board of health, who may disinfect such articles and thereupon remove such label. If the commissioner of labor finds that any workroom or factory is foul, unclean, or unsanitary, he may, after first making and filing in the public records of his office a written order stating the reasons therefor, affix to any articles therein found a label containing the word "unclean." No one but the commissioner of labor shall remove any label so affixed; and he may refuse to remove it until such articles shall have been removed from such factory and cleaned, or until such room or rooms shall have been cleaned or made sanitary. [*As am'd by L. 1912, ch. 334.*]

Section 392-a of the General Business Law contains special provisions relative to mattress factories as follows:

§ 392-a. **Marking mattresses.**—No person shall manufacture, sell, offer or expose for sale, deliver or have in his possession with intent to sell or deliver in this state any mattresses, pillow, cushion, muff bed, down quilt or bag containing hair, down or feathers unless the same be branded or labeled as follows: Upon each such mattress, pillow, cushion, muff bed, down quilt or bag there shall be securely fixed a banneret, paper or cloth tag which, if attached to the article itself, shall be sewed thereon upon which there shall be legibly printed in the English language a statement of the kind of material used in the manufacture of such mattress, pillow, cushion, muff bed or down quilt, and, if the material used in such mattress, pillow, cushion, muff bed or down quilt has been previously used in the manufacture of such articles, or about the person, it shall be branded second-hand. If such mattress, pillow, cushion, muff bed, quilt or bag be enclosed in a bale, box or crate, the receptacle shall bear a tag stating that the contents of the package is branded or labeled as required by this section. It shall be unlawful for any person to remove, conceal or deface any such brand or label. No person shall use, either in whole or in part, in the manufacture of any mattress, pillow, cushion or muff bed, down quilt, or bag, any material which has been used in or has formed a part of any mattress, pillow, cushion, muff bed, down quilt or bag used in or about a public or private hospital or in or about any person having an infectious or contagious disease. If on inspection the commissioner of labor shall find in any factory, or other places, materials for the manufacture of mattresses, pillows, muff beds, down quilts or bags, or if he shall find such mattresses, pillows, cushions, muff beds, down quilts or bags offered or intended for sale, the materials for making of which are made of materials that have been used in a hospital or by persons having an infectious or contagious disease, he shall, after first making and filing in the public records of his office a written order stating the reason therefor, at once and without further notice order the removal and destruction of such mattresses, pillows, cushions, muff beds, down quilts or bags, or of the materials intended for the manufacture of such mattresses, pillows, cushions, muff beds, down quilts or bags and affix to such mattresses, pillows, cushions, muff beds, down quilts or bags, or materials, labels or conspicuous signs bearing the word "unclean." No one but the commissioner of labor shall remove any such label or sign and he may refuse to remove it until such factory or other place be properly cleaned and disinfected. It shall be the duty of the state commissioner of labor whenever he has reason to believe that any person is violating or has violated any of the provisions of this section to cause an investigation to be

made and for that purpose he or his duly accredited representative shall have authority at all reasonable times to enter into any building, or other place, where such business is being conducted for the purpose of making such examination, and if evidence of such violation is obtained, shall place before the attorney-general any information he may have in relation thereto. The attorney-general shall thereupon, or the district attorney of the county in which the alleged violation occurs, if so directed by the attorney-general, institute the proper legal proceedings for the punishment of any such violation. The commissioner of labor may in a proper case through the attorney-general sue for and obtain an injunction restraining any person from manufacturing or selling an article in violation of this section. Any person who shall violate the provisions of this section shall be liable to a penalty of fifty dollars for each violation thereof, which penalties shall be cumulative and may be recovered by the attorney-general and more than one penalty may be included in the same action. [Added by L. 1913, ch. 503.]

§ 96. Definition of "custodian."—The word "custodian" as used in this article shall include any person, organization or society having the custody of a child.

§ 97. Brass, iron and steel foundries.—1. Foundries shall be subject to all the provisions of this chapter relating to factories.

2. All entrances to foundries shall be so constructed and maintained as to minimize drafts, and all windows therein shall be maintained in proper condition and repair.

3. All gangways in foundries shall be constructed and maintained of sufficient width to make the use thereof by employees reasonably safe; during the progress of casting such gangways shall not be obstructed in any manner.

4. Smoke, steam and gases generated in foundries shall be effectively removed therefrom, in accordance with such rules and regulations as may be adopted with reference thereto by the industrial board, and whenever required by the regulations of such board, exhaust fans of sufficient capacity and power, properly equipped with ducts and hoods, shall be provided and operated to remove such smoke, steam and gases. The milling and cleaning of castings, and milling of cupola cinders, shall be done under such conditions to be prescribed by the rules and regulations of the industrial board as will adequately protect the persons employed in foundries from the dust arising during the process.

5. All foundries shall be properly and thoroughly lighted during working hours and in cold weather proper and sufficient heat shall be provided and maintained therein. The use of heaters discharging smoke or gas into work-rooms is prohibited. In all foundries suitable provisions shall be made and maintained for drying the working clothes of persons employed therein.

6. In every foundry in which ten or more persons are employed or engaged at labor, there shall be provided and maintained for the use of employees therein suitable and convenient washrooms of sufficient capacity adequately equipped with hot and cold water service; such washrooms shall be kept clean and sanitary and shall be properly heated during cold weather. In every such foundry lockers shall be provided for the safe-keeping of employees' clothing. In every foundry in which more than ten persons are employed or engaged at labor where water closets or privy accommodations are permitted

by the commissioner of labor to remain outside of the factory under the provisions of section eighty-eight of this chapter, the passageway leading from the foundry to the said water closets or privy accommodations shall be so protected and constructed that the employees in passing thereto or therefrom shall not be exposed to outdoor atmosphere and such water closets or privy accommodations shall be properly heated during cold weather.

7. The flasks, molding machines, ladles, cranes and apparatus for transporting molten metal in foundries shall be maintained in proper condition and repair, and any such tools or implements that are defective shall not be used until properly repaired. There shall be in every foundry, available for immediate use, an ample supply of lime water, olive oil, vaseline, bandages and absorbent cotton, to meet the needs of workmen in case of burns or other accidents; but any other equally efficacious remedy for burns may be substituted for those herein prescribed. [*Section 97 added by L. 1913, ch. 201.*]

§ 98. **Labor camps.**—Every employer operating a factory, and furnishing to the employees thereof any living quarters at any place outside the factory, either directly or through any third person by contract or otherwise, shall maintain such living quarters and every part thereof in a thoroughly sanitary condition. The industrial board shall have power to make rules and regulations to provide for the sanitation of such living quarters. The commissioner of labor may enter and inspect any such living quarters. [*Added by L. 1913, ch. 195.*]

For sanitation of cannery labor camps, see Industrial Code, Rules 200-232, pp. 129-135, *post*.

§ 99. **Dangerous trades.**—Whenever the industrial board shall find as a result of its investigations that any industry, trade or occupation by reason of the nature of the materials used therein or the products thereof or by reason of the methods or processes or machinery or apparatus employed therein or by reason of any other matter or thing connected with such industry, trade or occupation, contains such elements of danger to the lives, health or safety of persons employed therein as to require special regulation for the protection of such persons, said board shall have power to make such special rules and regulations as it may deem necessary to guard against such elements of danger by establishing requirements as to temperature, humidity, the removal of dusts, gases or fumes and requiring licenses to be applied for and issued by the commissioner of labor as a condition of carrying on any such industry, trade or occupation and requiring medical inspection and supervision of persons employed and applying for employment and by other appropriate means. [*Added by L. 1913, ch. 199.*]

§ 99-a. **Laws to be posted.**—Copies or digests of the provisions of this chapter and of the rules and regulations of the industrial board, applicable thereto, in English and in such other languages as the commissioner of labor may require, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in such conspicuous place or places as the commissioner of labor may direct on each floor of every factory where persons are employed who are affected by the provisions thereof. [*Originally § 68 of article 5; renumbered, transferred and am'd by L. 1913, ch. 145.*]

ARTICLE 7

Tenement-made Articles

[An earlier statute, L. 1884, ch. 272, which attempted to prohibit the manufacture of cigars in tenements, was declared unconstitutional: *Matter of Jacobs*, 98 N. Y. 98. Violation is a misdemeanor: Penal Law, § 1275, p. 171, post. "Tenement house" is defined in § 2, ante.]

Section 100. Manufacturing, altering, repairing or finishing articles in tenements.

101. Register of persons to whom work is given; identification label.

102. Goods unlawfully manufactured to be labelled.

103. Powers and duties of boards of health relative to tenement-made articles.

104. Manufacture of certain articles in tenements prohibited.

105. Owners of tenement houses not to permit the unlawful use thereof.

106. Factory permits.

§ 100. Manufacturing, altering, repairing or finishing articles in tenements.—1. No tenement house nor any part thereof shall be used for the purpose of manufacturing, altering, repairing or finishing therein, any articles whatsoever except for the sole and exclusive use of the person so using any part of such tenement house or the members of his household, without a license therefor as provided in this article. But nothing herein contained shall apply to collars, cuffs, shirts or shirt waists made of cotton or linen fabrics that are subjected to the laundrying process before being offered for sale.

2. Application for such a license shall be made to the commissioner of labor by the owner of such tenement house, or by his duly authorized agent. Such application shall describe the house by street number or otherwise, as the case may be, in such manner as will enable the commissioner of labor easily to find the same; it shall also state the number of apartments in such house; it shall contain the full name and address of the owner of the said house, and shall be in such form as the commissioner of labor may determine. Blank applications shall be prepared and furnished by the commissioner of labor.

3. Upon receipt of such application the commissioner of labor shall consult the records of the local health department or board, or other appropriate local authority charged with the duty of sanitary inspection of such houses; if such records show the presence of any infectious, contagious or communicable disease, or the existence of any uncomplished order or violations which indicate the presence of unsanitary conditions in such house, the commissioner of labor may, without making an inspection of the building, deny such application for a license, and may continue to deny such application until such time as the records of said department, board or other local authority show that the said tenement house is free from the presence of infectious, contagious or communicable disease, and from all unsanitary conditions. Before, however, any such license is granted, an inspection of the building sought to be licensed must be made by the commissioner of labor, and a statement must be filed by him as a matter of public record, to the effect that the records of the local health department or board or other appropriate authority charged with the duty of sanitary inspection of such

houses show the existence of no infectious, contagious or communicable disease nor of any unsanitary conditions in the said house; such statement must be dated and signed in ink with the full name of the employee responsible therefor. A similar statement similarly signed, showing the results of the inspection of the said building, must also be filed in the office of the commissioner of labor before any license is granted. If the commissioner of labor ascertain that such building is free from infectious, contagious or communicable disease, that there are no defects of plumbing that will permit the entrance of sewer air, that such building is in a clean and proper sanitary condition and that articles may be manufactured therein under clean and healthful conditions, he shall grant a license permitting the use of such building, for the purpose of manufacturing.

4. Such license may be revoked by the commissioner of labor if the health of the community or of the employees requires it, or if the owner of the said tenement house, or his duly authorized agent, fails to comply with the orders of the commissioner of labor within ten days after the receipt of such orders, or if it appears that the building to which such license relates is not in a healthy and proper sanitary condition, or if children are employed therein in violation of section seventy of this chapter. In every case where a license is revoked or denied by the commissioner of labor the reasons therefor shall be stated in writing, and the records of such revocation or denial shall be deemed public records. Where a license is revoked, before such tenement house can again be used for the purposes specified in this section, a new license must be obtained, as if no license had previously existed.

5. Every tenement house and all the parts thereof in which any articles are manufactured, altered, repaired or finished shall be kept in a clean and sanitary condition and shall be subject to inspection and examination by the commissioner of labor, for the purpose of ascertaining whether said garments or articles, or part or parts thereof, are clean and free from vermin and every matter of an infectious or contagious nature. An inspection shall be made by the commissioner of labor of each licensed tenement house not less than once in every six months, to determine its sanitary condition, and shall include all parts of such house and the plumbing thereof. Before making such inspection the commissioner of labor may consult the records of the local department or board charged with the duty of sanitary inspection of tenement houses, to determine the frequency of orders issued by such department or board in relation to the said tenement house, since the last inspection of such building was made by the commissioner of labor. Whenever the commissioner of labor finds any unsanitary condition in a tenement house for which a license has been issued as provided in this section, he shall at once issue an order to the owner thereof directing him to remedy such condition forthwith. Whenever the commissioner of labor finds any articles manufactured, altered, repaired or finished, or in process thereof, in a room or apartment of a tenement house, and such room or apartment is in a filthy condition, he shall notify the tenants thereof to immediately clean the same, and to maintain it in a cleanly condition at all times; where the commissioner of labor finds such room or apartment to be habitually kept in a filthy condition, he may in his discretion cause to be affixed to the entrance door of such apartment a placard calling attention to such facts and prohibiting the manufacture, alteration,

repair or finishing of any articles therein. No person, except the commissioner of labor, shall remove or deface any such placard so affixed.

See provision for "tagging" of infected or unclean goods specified in this section, in tenant-factories in § 95, *ante*.

6. No articles shall be manufactured, altered, repaired or finished in any room or apartment of a tenement house where there is or has been a case of infectious, contagious or communicable disease in such room or apartment, until such time as the local department or board of health shall certify to the commissioner of labor that such disease has terminated, and that said room or apartment has been properly disinfected, if disinfection after such disease is required by the local ordinances, or by the rules or regulations of such department or board. No articles shall be manufactured, altered, repaired or finished in a part of a cellar or basement of a tenement house, which is more than one-half of its height below the level of the curb or ground outside of or adjoining the same; but this prohibition shall not apply to the use for a bakery of a cellar for which a certificate of exemption is issued under section one hundred and sixteen of this chapter. No person shall hire, employ or contract with any person to manufacture, alter, repair or finish any articles in any room or apartment in any tenement house not having a license therefor issued as aforesaid. No articles shall be manufactured, altered, repaired or finished in any room or apartment of a tenement house unless said room or apartment shall be well lighted and ventilated and shall contain at least five hundred cubic feet of air space for every person working therein, or by any person other than the members of the family living therein; except that in licensed tenement houses persons not members of the family may be employed in apartments on the ground floor or second floor, used only for shops of dressmakers who deal solely in the custom trade direct to the consumer, provided that such apartments shall be in the opinion of the commissioner of labor in the highest degree sanitary, well lighted, well ventilated and plumbed, and provided further that the whole number of persons therein shall not exceed one to each one thousand cubic feet of air space, and that there shall be no children under fourteen years of age living or working therein; before any such room or apartment can be so used a special permit therefor shall be issued by the commissioner of labor, a copy of which shall be entered in his public records with a statement of the reasons therefor. Nothing in this section contained shall prevent the employment of a tailor or seamstress by any person or family for the purpose of making, altering, repairing or finishing any article of wearing apparel for the use of such person or family. Nor shall this article apply to a house if the only manufacturing therein be carried on in a shop on the main or ground floor thereof with a separate entrance to the street, unconnected with living rooms and entirely separate from the rest of the building by closed partitions without any openings whatsoever and not used for sleeping or cooking. [Section 100 *am'd* by L. 1913, ch. 260.]

§ 101. Register of persons to whom work is given; identification label.— Every employer in any factory contracting for the manufacturing, altering, repairing or finishing of any articles in a tenement house or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, in a tenement house, shall keep a register of the names and addresses plainly written in English of the persons to whom such articles

or materials are given to be so manufactured, altered, repaired or finished or with whom they have contracted to do the same, and shall issue with all such articles or materials a label bearing the name and place of business of such factory written or printed legibly in English. It shall be incumbent upon every employer and upon all persons contracting for the manufacturing, altering, repairing or finishing of any articles or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, before giving out any such articles or materials to ascertain from the office of the commissioner of labor whether the tenement house in which such articles or materials are to be manufactured, altered, repaired or finished, is licensed as provided in this article, and also to ascertain from the local department or board of health the names and addresses of all persons then sick of any infectious, contagious or communicable disease, and residing in tenement houses; and none of the said articles nor any material from which they or any part of them are to be manufactured, altered, repaired or finished shall be given out or sent to any person residing in a tenement house that is not licensed as provided in this article, or to any person residing in a room or apartment in which there exists any infectious, contagious or communicable disease. The register mentioned in this section shall be subject to inspection by the commissioner of labor, and a copy thereof shall be furnished on his demand as well as such other information as he may require. The label mentioned in this section shall be exhibited on the demand of the commissioner of labor at any time while said articles or materials remain in the tenement house. [*As am'd by L. 1913, ch. 260.*]

§ 102. Goods unlawfully manufactured to be labeled.—Articles manufactured, altered, repaired or finished in a tenement house contrary to the provisions of this chapter shall not be sold or exposed for sale by any person. The commissioner of labor may conspicuously affix to any such article found to be unlawfully manufactured, altered, repaired or finished, a label containing the words "tenement made" printed in small pica capital letters on a tag not less than four inches in length, or may seize and hold such article until the same shall be disinfected or cleaned at the owner's expense, or until all provisions of this chapter are complied with. The commissioner of labor shall notify the person stated by the person in possession of said article to be the owner thereof, that he has so labeled or seized it. No person except the commissioner of labor, or a local board of health in a case provided for in section one hundred and three, shall remove or deface any tag or label so affixed. Unless the owner or person entitled to the possession of an article so seized shall provide for the disinfection or cleaning thereof within one month thereafter it may be destroyed. [*As am'd by L. 1913, ch. 260.*]

§ 103. Powers and duties of boards of health relative to tenement-made articles.—If the commissioner of labor finds evidence of disease present in a room or apartment in a tenement house in which any articles are manufactured, altered, repaired or finished or in process thereof, he shall affix to such article the label prescribed in the preceding section, and immediately report to the local board of health, who shall disinfect such articles, if necessary, and thereupon remove such label. If the commissioner of labor finds that infectious, contagious or communicable diseases exist in a room or apartment of a tenement house in which any articles are being manufactured, altered, repaired or finished, or that articles manufactured or in process of manu-

facture therein are infected or that goods used therein are unfit for use, he shall report to the local board of health. The local health department or board in every city, town and village whenever there is any infectious, contagious or communicable disease in a tenement house shall cause an inspection of such tenement house to be made within forty-eight hours. If any articles are found to be manufactured, altered, repaired or finished, or in process thereof in an apartment in which such disease exists, such board shall issue such order as the public health may require, and shall at once report such facts to the commissioner of labor, furnishing such further information as he may require. Such board may condemn and destroy all such infected article or articles manufactured or in the process of manufacture under unclean or unhealthful conditions. The local health department or board or other appropriate authority charged with the duty of sanitary inspection of such houses in every city, town and village shall, when so requested by the commissioner of labor, furnish copies of its records as to the presence of infectious, contagious or communicable disease, or of unsanitary conditions in said houses; and shall furnish such other information as may be necessary to enable the commissioner of labor to carry out the provisions of this article. [*As am'd by L. 1913, ch. 260.*]

With this section is to be compared section 33 of the Public Health Law (ch. 46. Consolidated Laws), which reads as follows:

Section 33. *Manufactures in tenement houses and dwellings.*—No room or apartment in a tenement or dwelling house, used for eating or sleeping purposes, shall be used for the manufacture, wholly or partly, of coats, vests, trousers, kneepants, overalls, cloaks, shirts, purses, feathers, artificial flowers or cigars, except by the members of the family living therein, which shall include a husband and wife and their children, or the children of either. A family occupying or controlling such a workshop shall, within fourteen days from the time of beginning work therein, notify the board of health of the city, village or town, where such workshop is located, or a special inspector appointed by such board, of the location of such workshop, the nature of the work carried on, and the number of persons employed therein; and thereupon such board shall, if it deems advisable, cause a permit to be issued to such family to carry on the manufacture specified in the notice. Such board may appoint as many persons as it deems advisable to act as special inspectors. Such special inspectors shall receive no compensation, but may be paid by the board their reasonable and necessary expenses. If a board of health or such inspector shall find evidence of infectious or contagious diseases present in any workshop, or in goods manufactured or in process of manufacture therein, the board shall issue such orders as the public health may require, and shall condemn and destroy such infectious and contagious articles, and may, if necessary to protect the public health, revoke any permit granted by it for manufacturing goods in such workshop. If a board of health or any such inspector shall discover that any such goods are being brought into the state, having been manufactured, in whole or in part, under unhealthy conditions, such board or inspector shall examine such goods, and if they are found to contain vermin, or to have been made in improper places or under unhealthy conditions, the board may make such orders as the public health may require, and may condemn and destroy such goods.

§ 104. *Manufacturing of certain articles in tenements prohibited.*—No article of food, no dolls or dolls' clothing and no article of children's or infants' wearing apparel shall be manufactured, altered, repaired or finished, in whole or in part, for a factory, either directly or through the instrumentality of one or more contractors or other third person, in a tenement house, in any portion of an apartment, any part of which is used for living purposes. [*Added by L. 1913, ch. 260.*]

§ 105. Owners of tenement houses not to permit the unlawful use thereof.—The owner or agent of a tenement house shall not permit the use thereof for the manufacture, repair, alteration or finishing of any article contrary to the provisions of this chapter. If a room or apartment in such tenement house be so unlawfully used, the commissioner of labor shall serve a notice thereof upon such owner or agent. Unless such owner or agent shall cause such unlawful manufacture to be discontinued within ten days after the service of such notice, or within fifteen days thereafter institutes and faithfully prosecutes proceedings for dispossession of the occupant of a tenement house, who unlawfully manufactures, repairs, alters or finishes any articles therein, he shall be deemed guilty of a violation of this chapter as if he, himself, was engaged in such unlawful manufacture, repair, alteration or finishing. The unlawful manufacture, repair, alteration or finishing of any articles by the occupant of a room or apartment of a tenement house shall be a cause for dispossessing such occupant by summary proceedings to recover possession of real property, as provided in the code of civil procedure. [*As am'd by L. 1913, ch. 260.*]

§ 106. Factory permits.—The owner of every factory for which any articles are manufactured in any tenement house shall secure a permit therefor from the commissioner of labor who shall issue such permit to any such owner applying therefor. Such permit may be revoked or suspended by the commissioner of labor whenever any provision of this article or of section seventy of this chapter is violated in connection with any work for such factory. Such permit may be reissued or reinstated in the discretion of the commissioner when such violation has ceased. No articles shall be manufactured in any tenement house for any factory for which no permit has been issued or for any factory whose permit is suspended or revoked. A complete list of all factories holding such permits, together with the name of the owner of each such factory, the address of the business and the name under which it is carried on, and of all tenement houses holding licenses, and a list of all permits and licenses revoked or suspended shall be published from time to time by the department of labor. [*Added by L. 1913, ch. 260.*]

ARTICLE 8

Bakeries and Confectioneries

[*Non-compliance with the provisions of this article is a misdemeanor: Penal Law, § 1275, p. 171, post. The provisions of article 8 as to factories generally, apply to bakeries and confectioneries: § 111; the provisions of § 40 of the Tenement House Law (ch. 61 of Consolidated Laws) apply to bakeries in tenement houses. For sanitary code for bakeries and confectioneries, see Industrial Code, Rules 300-347, pp. 135-140, post.*]

Section 110. Enforcement of article.

111. Definitions.

112. General requirements.

113. Maintenance.

113a. Prohibited employment of diseased bakers.

114. Inspection of bakeries.

115. Sanitary certificates.

116. Prohibition of future cellar bakeries.

117. Sanitary code for bakeries and confectioneries.

§ 110. Enforcement of article.—In every city of the first class the health department of such city shall have exclusive jurisdiction to enforce the pro-

visions of this article. In the application of any provision of this article to any city of the first class, the words "commissioner of labor" or "department of labor" shall be understood to mean the health department of such city. [Added by L. 1913, ch. 463.]

§ 111. Definitions.—All buildings, rooms or places used or occupied for the purpose of making, preparing or baking bread, biscuits, pastry, cakes, doughnuts, crullers, noodles, macaroni or spaghetti to be sold or consumed on or off the premises, except kitchens in hotels, restaurants, boarding houses or private residences wherein such products are prepared to be used and are used exclusively on the premises, shall for the purpose of this article be deemed bakeries. The commissioner of labor shall have the same powers with respect to the machinery, safety devices and sanitary conditions in hotel bakeries that he has with respect thereto in bakeries as defined by this chapter. In cities of the first class the health department's jurisdiction over hotel bakeries shall not extend to the machinery safety devices and hours of labor of employees therein. The term cellar when used in this article shall mean a room or a part of a building which is more than one-half its height below the level of the curb or ground adjoining the building (excluding areaways). The term owner as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in charge of the property. The term occupier shall be construed to mean the person, firm or corporation in actual possession of the premises, who either himself makes, prepares or bakes any of the articles mentioned in this section, or hires or employs others to do it for him. Bakeries are factories within the meaning of this chapter, and subject to all the provisions of article six hereof. [As am'd by L. 1911, ch. 637, and L. 1913, ch. 463.]

§ 112. General requirements.—All bakeries shall be provided with proper and sufficient drainage and with suitable sinks, supplied with clean running water for the purpose of washing and keeping clean the utensils and apparatus used therein. All bakeries shall be provided with proper and adequate windows, and if required by the rules and regulations of the industrial board, with ventilating hoods and pipes over ovens and ashpits, or with other mechanical means, to so ventilate same as to render harmless to the persons working therein any steam, gases, vapors, dust, excessive heat or any impurities that may be generated or released by or in the process of making, preparing or baking in said bakeries. Every bakery shall be at least eight feet in height measured from the surface of the finished floor to the under side of the ceiling, and shall have a flooring of even, smooth cement, or of tiles laid in cement, or a wooden floor, so laid and constructed as to be free from cracks, holes and interstices, except that any cellar or basement less than eight feet in height which was used for a bakery on the second day of May, eighteen hundred and ninety-five, need not be altered to conform to this provision with respect to height; the side walls and ceilings shall be either plastered, ceiled or wainscoted. Every bakery shall be provided with a sufficient number of water-closets, and such water-closets shall be separate and apart from and unconnected with the bakeroom or rooms where food products are stored or sold. [As am'd by L. 1911, ch. 637, and L. 1913, ch. 463.]

§ 113. **Maintenance.**—All floors, walls, stairs, shelves, furniture, utensils, yards, areaways, plumbing, drains and sewers, in or in connection with bakeries, or in bakery water-closets and washrooms, or rooms where raw materials are stored, or in rooms where the manufactured product is stored, shall at all times be kept in good repair, and maintained in a clean and sanitary condition, free from all kinds of vermin. All interior woodwork, walls and ceilings shall be painted or limewashed once every three months, where so required by the commissioner of labor. Proper sanitary receptacles shall be provided and used for storing coal, ashes, refuse and garbage. Receptacles for refuse and garbage shall have their contents removed from bakeries daily and shall be maintained in a clean and sanitary condition at all times; the use of tobacco in any form in a bakery or room where raw material or manufactured product of such bakery is stored is prohibited. No person shall sleep, or be permitted, allowed or suffered to sleep in a bakery, or in any room where raw material or the manufactured product of such bakery is stored or sold, and no domestic animals or birds, except cats shall be allowed to remain in any such rooms. Mechanical means of ventilation, when provided, shall be effectively used and operated. Windows, doors and other openings shall be provided with proper screens. All employees, while engaged in the manufacture and handling of bread shall wear slippers or shoes and suits of washable material which shall be used for that purpose only and such garments shall be kept clean at all times. Lockers shall be provided for the street clothes of the employees. The furniture, troughs and utensils shall be so arranged and constructed as not to prevent their cleaning or the cleaning of every part of the bakery. [*As am'd by L. 1911, ch. 637, and L. 1913, ch. 463.*]

§ 113-a. **Prohibited employment of diseased bakers.**—No person who has any communicable disease shall work or be permitted to work in a bakery. Whenever required by a medical inspector of the department of labor, any person employed in a bakery shall submit to a physical examination by such inspector. No person who refuses to submit to such examination shall work or be permitted to work in any bakery. [*Added by L. 1913, ch. 463.*]

§ 114. **Inspection of bakeries.**—It shall be the duty of the owner of a building wherein a bakery is located to comply with all the provisions of section one hundred and twelve of this article, and of the occupier to comply with all the provisions of section one hundred and thirteen of this article, unless by the terms of a valid lease the responsibility for compliance therewith has been undertaken by the other party to the lease, and a duplicate original lease, containing such obligation, shall have been previously filed in the office of the commissioner of labor, in which event the party assuming the responsibility shall be responsible for such compliance. The commissioner of labor may, in his discretion, apply any or all of the provisions of this article to a factory located in a cellar wherein any food product is manufactured, provided that basements or cellars used as confectionery or ice-cream manufacturing shops shall not be required to conform to the requirement as to height of rooms. Such establishments shall be not less than seven feet in height, except that any cellar or basement so used before October first, nineteen hundred and six, which is more than six feet in height need not be altered to conform to this provision. If on inspection the commissioner

of labor find a bakery or any part thereof to be so unclean, ill-drained or ill-ventilated as to be unsanitary, he may, after not less than forty-eight hours' notice in writing, to be served by affixing the notice on the inside of the main entrance door of said bakery, order the person found in charge thereof immediately to cease operating it until it shall be properly cleaned, drained or ventilated. If such bakery be thereupon continued in operation or be thereafter operated before it be properly cleaned, drained or ventilated, the commissioner of labor may, after first making and filing in the public records of his office a written order stating the reasons therefor, at once and without further notice fasten up and seal the oven or other cooking apparatus of said bakery, and affix to all materials, receptacles, tools and instruments found therein, labels or conspicuous signs bearing the word "unclean." No one but the commissioner of labor shall remove any such seal, label or sign, and he may refuse to remove it until such bakery be properly cleaned, drained or ventilated. [*As am'd by L. 1911, ch. 637, and L. 1913, ch. 463.*]

§ 115. **Sanitary certificates.**—1. No person, firm or corporation shall establish, maintain or operate a bakery without obtaining a sanitary certificate from the department of labor. Application for such certificate shall be made to the commissioner of labor by the occupier of the bakery or by the person, firm or corporation desiring to establish or conduct such bakery. The application for a sanitary certificate shall be made in such form and shall contain such information as the commissioner of labor may require. Blank applications for such certificate shall be prepared and furnished by the commissioner of labor.

2. Upon the receipt of such application for a sanitary certificate, the commissioner of labor shall cause an inspection to be made of the building, room or place described in the application. If the bakery conforms to the provisions of articles six and eight of this chapter and the rules and regulations of the industrial board, or in any city of the first class if the bakery conforms to the provisions of article eight of this chapter, and to the sanitary code and the rules and regulations of the department of health of any such city, the commissioner of labor shall issue a sanitary certificate for such bakery. Such certificate shall be for a period of one year and shall be renewed annually by the commissioner of labor if upon a reinspection of the bakery it is found to comply with the aforesaid provisions and regulations. Every certificate granted under the provisions of this chapter shall be posted in a conspicuous place in the bakery for which such certificate is issued.

3. Such certificate may be revoked at any time by the commissioner of labor if the health of the community or of the employees of the bakery require such action, or if an order of the department issued under the provisions of this chapter be not complied with within fifteen days after the service thereof upon the person, firm or corporation charged with the duty of complying with such order. The time for such compliance may be extended by the commissioner of labor for good cause shown, but a statement of the reasons for such extension shall be filed in the office of the department of labor as part of the public records thereof. Nothing contained in this subdivision shall be construed to limit in any way the power of the commissioner of labor to seal up an unsanitary bakery as provided in section one hundred and fourteen of this chapter.

4. If an application for a sanitary certificate be denied or if such certificate be revoked by the commissioner of labor, he shall file in the office of the department of labor as part of the public records thereof, a statement in writing setting forth in detail the reasons for such denial or revocation.

5. Applications for sanitary certificates for existing bakeries shall be made within four months after this act takes effect, and no such bakery shall be conducted or operated without a sanitary certificate from the department of labor after the first day of January, nineteen hundred and fourteen. In the case of bakeries hereafter established, the application for a sanitary certificate shall be made within ten days after such bakery shall commence business, and no such bakery shall be conducted or operated without a sanitary certificate for more than thirty days after commencing business.

6. If a bakery has no sanitary certificate as herein required or if such certificate has been revoked, the commissioner of labor shall, after first making and filing in the public records of his office a written order stating the reasons therefor, at once and without further notice fasten up and seal the oven or other cooking apparatus of said bakery. No one but the commissioner of labor or his duly authorized representative shall remove any such seal, and he shall not remove same until a sanitary certificate has been issued to such bakery. [Section 115 added by L. 1913, ch. 463.]

§ 116. Prohibition of future cellar bakeries.—No bakery shall hereafter be located in a cellar, and a sanitary certificate shall not be issued for any bakery so located unless such bakery shall be at least ten feet in height measured from the surface of the finished floor to the under side of the ceiling, and if the bakery is located or intended to be located entirely in the front part of the building, the ceiling of the bakery shall be in every part at least four feet six inches above the curb level of the street in front of the building, or if such bakery is located or intended to be located entirely in the rear part of the building or to extend from the front to the rear, the ceiling or the bakery shall not be less than one foot above the curb level of the street in front of the building and the bakery shall open upon a yard or courts which shall extend at least six inches below the floor level of the bakery, nor unless proper and adequate provision shall be made for the lighting and ventilation of such bakery and for the proper construction of the floor, walls and ceiling thereof, and plans and specifications for the construction and establishment of such bakery, in such form and covering such matters as the commissioner of labor may require, shall have been first submitted to and approved by the commissioner of labor. This prohibition shall not apply to a cellar used and operated as a bakery at any time within one year prior to the date of the passage of this act, provided that satisfactory proof of its use as a bakery as herein specified be furnished to the commissioner of labor in such form as he may require within six months after this act shall take effect, nor shall it apply to the cellar of a building in the course of construction on the ninth day of May, nineteen hundred and thirteen, nor to the cellar of a building the construction of which was commenced after the first day of January, nineteen hundred and thirteen, and completed on or before the ninth day of May, nineteen hundred and thirteen, provided that such cellar be used and operated as a bakery at any time prior

* So in original.

properly secured. No person shall be required or permitted to work in an unsafe place or under dangerous material, except to make it secure.

§ 123. **Riding on loaded cars; storage of inflammable supplies.**—No person shall ride or be permitted to ride on any loaded car, cage or bucket into or out of a mine or tunnel in process of construction. No powder or oils of any description shall be stored in a mine, tunnel or quarry, or in or around shafts, engine or boiler-houses, and all supplies of an inflammable and destructive nature shall be stored at a safe distance from the mine or tunnel openings.

§ 124. **Inspection of steam boilers and apparatus; steam, air and water gauges.**—All boilers used in generating steam for mining or tunneling purposes shall be kept in good order, and the owner, agent, manager or lessee of such mine or tunnel shall have such boilers inspected by a competent person, approved by the commissioner of labor, once in six months, and shall file a certificate showing the result thereof in the mine or tunnel office and a duplicate thereof in the office of the commissioner of labor. All engines, brakes, cages, buckets, ropes and chains shall be kept in good order and inspected daily by the superintendent of the mine or tunnel or a person designated by him. All lifts, hoists, ropes and other mechanical devices shall be properly designed and maintained to sustain the weight intended to be placed thereon or suspended therefrom, such factors of safety being used as are generally accepted as sufficient by competent engineers, and all cars and lifts shall be supplied with safety brakes. All hoisting ropes shall at all times be of a breaking strength of not less than five times the gross load suspended from them, including weight of rope itself. Each boiler or battery of boilers used in mining or tunneling for generating steam, shall be provided with a proper safety valve and with steam and water gauges, to show, respectively, the pressure of steam and the height of water in the boilers. Every boiler-house in which a boiler or nest of boilers is placed, shall be provided with steam gauge properly connected with the boilers, and another steam gauge shall be attached to the steam pipe in the engine-house, and so placed that the engineer or fireman can readily ascertain the pressure carried. Every tunnel in which men are working under artificial air pressure shall be furnished with properly equipped and placed gauges capable at all times of showing the weight or pressure of air in said tunnel, and said gauge shall at all times during working hours be accessible to all persons working on said tunnel.

§ 125. **Use of explosives; blasting.**—When high explosives other than gunpowder are used in a mine, tunnel or quarry, the manner of storing, keeping, moving, charging and firing, or in any manner using such explosives, shall be in accordance with rules* prescribed by the commissioner of labor.

In charging holes for blasting, in slate, rock or ore in any mine, tunnel or quarry, no iron or steel pointed needle or tamping bar shall be used, unless the end thereof is tipped with at least six inches of copper or other soft material. No person shall be employed to blast unless the mine or tunnel superintendent, or person having charge of such mine or tunnel is satisfied that he is qualified, by experience, to perform the work with ordinary safety. When a blast is about to be fired in a mine or tunnel, timely notice thereof

* See rules and regulations prescribed by commissioner of labor, following § 136, *post*.

shall be given by the person in charge of the work, to all persons who may be in danger therefrom.

§ 126. **Report of accidents.**—Whenever loss of life or an accident causing an injury incapacitating any person for work shall occur in the operation of a mine or quarry, or in the construction or repair of a tunnel, the owner, agent, manager, lessee, contractor, subcontractor, or person in charge thereof, shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises or works, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the accident, death or injury a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L. 1910, ch. 155.*]

Compare § 20-a, *ante*, building accidents, and § 87, factory accidents; also §§ 96 and 111 of the Workmen's Compensation Law, pp. 206, 209, *post*.

§ 127. **Notice of dangerous condition.**—If the commissioner of labor, after examination or otherwise, is of the opinion that a mine or tunnel or any thing used in the operation thereof is unsafe, he shall immediately serve a written notice, specifying the defects, upon the owner, agent, manager or lessee, who shall forthwith remedy the same.

§ 128. **Traveling ways.**—In all mines there shall be cut out of or around the sides of every hoisting shaft or driven through the solid strata at the bottom thereof, a traveling way not less than five feet high and three feet wide to enable persons to pass the shaft in going from one side to the other without passing over or under or in the way of the cage or other hoisting apparatus.

§ 129. **Notice of opening new mine, shaft or quarry.**—Whenever a mine or quarry operator has engaged or is about to engage in the development of new industries by the sinking of new shafts, inclines, tunnels or quarries, he shall report to the commissioner of labor, giving the name of the owner or owners, and the location of the property, before the work of excavation shall have reached the depth of twenty-five feet.

§ 130. **Notice of abandonment.**—It shall be the duty of every mine or quarry operator to notify the commissioner of labor of the discontinuance or abandonment of any mine or quarry, when and in the event that such mine or quarry shall be closed permanently or abandoned.

§ 131. **Employment of women and children.**—No child under sixteen years of age shall be employed, permitted or suffered to work in or in connection with any mine or quarry in this state. No female shall be employed, permitted or suffered to work in any mine or quarry in this state.

§ 132. **Underground workings to be equipped with head house and doors.**—Every underground working where the depth exceeds forty feet shall be equipped with a proper head house and trapdoors.

§ 133. Mines and tunnels to be equipped with wash-rooms.—Every mine, tunnel or quarry employing over twenty-five men shall maintain a suitably equipped and heated wash-room, which shall be at all times accessible to the men employed.

§ 134. Method of exploding blasts.—No blast shall be exploded by an electric current of more than two hundred and fifty volts.

§ 134-a. Hours of labor.—All work in the prosecution of which tunnels, caissons or other apparatus or means in which compressed air is employed or used shall be conducted subject to the following restrictions and regulations: When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and shall not exceed twenty-one pounds to the square inch, no employee shall be permitted to work or remain therein more than eight hours in any twenty-four hours and shall only be permitted to work under such air pressure provided he shall during such period return to the open air for an interval of at least thirty consecutive minutes, which interval his employer shall provide for. When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and shall equal twenty-two pounds to the square inch and does not exceed thirty pounds to the square inch, no employee shall be permitted to work or remain therein more than six hours in any twenty-four hours, such six hours to be divided into two periods of three hours each with an interval of at least one hour between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall exceed thirty pounds to the square inch, and shall not equal thirty-five pounds to the square inch, no employee shall be permitted to work or remain therein more than four hours, such four hours to be divided into two periods of two hours each, with an interval of at least two hours between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall equal thirty-five pounds to the square inch and shall not exceed forty pounds to the square inch, no such employee shall be permitted to work or remain therein more than three hours in any twenty-four hours, such three hours to be divided into periods of not more than one and one-half hours each, with an interval of at least three hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty pounds to the square inch and shall not equal forty-five pounds to the square inch, no employee shall be permitted to work or remain therein more than two hours in any twenty-four hours, such two hours to be divided into periods of not more than one hour each, with an interval of at least four hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-five pounds to the square inch and shall not exceed fifty pounds to the square inch, no employee shall be permitted to work or remain therein more than ninety minutes in any twenty-four hours, and such ninety minutes to be divided into periods of forty-five minutes each, with an interval of not less than five hours between each such period; no employee shall be permitted to work in any compartment, caisson, tunnel or place where the pressure shall exceed fifty pounds to the square inch, except in case of emergency. No person employed in work

in compressed air shall be permitted by his employer or by the person in charge of said work to pass from the place in which the work is being done to atmosphere of normal pressure, without passing through an intermediate lock or stage of decompression, which said decompression shall be, where the work is being done in tunnels, at the rate of three pounds every two minutes unless the pressure shall be over thirty-six pounds, in which event the decompression shall be at the rate of one pound per minute; and which said decompression shall be, where the work is being done in caissons, at the following rates:

Where pressure is not over ten pounds per square inch the time of decompression shall be one minute; when pressure is over ten pounds per square inch, but does not exceed fifteen pounds per square inch, the time of decompression shall be two minutes; when pressure is over fifteen pounds per square inch, but does not exceed twenty pounds per square inch, the time of the decompression shall be five minutes; when pressure is over twenty pounds per square inch, but does not exceed twenty-five pounds per square inch, the time of decompression shall be ten minutes; when pressure is over twenty-five pounds per square inch but does not exceed thirty pounds per square inch, the time of decompression shall be twelve minutes; when pressure is over thirty pounds per square inch, but does not exceed thirty-six pounds per square inch, the time of decompression shall be fifteen minutes; when pressure is over thirty-six pounds per square inch, but does not exceed forty pounds per square inch, the time of decompression shall be twenty minutes; when pressure is over forty pounds per square inch, but does not exceed fifty pounds per square inch, the time of decompression shall be twenty-five minutes.

All necessary instruments shall be attached to all caissons and air locks showing the actual air pressure to which men employed therein are subjected and which instruments shall be accessible to and in charge of a competent person who shall not be employed more than eight hours in any twenty-four hours. [*Added by L. 1909, ch. 291; am'd by L. 1912, ch. 219; and L. 1913, ch. 528.*]

§ 134-b. Medical attendance and regulations.—Any person or corporation carrying on any tunnel, caisson or other work in the prosecution of which men are employed or permitted to work in compressed air, shall, while such men are so employed, also employ and keep in employment, one or more duly qualified persons to act as medical officer or officers who shall be in attendance at all necessary times while such work is in progress and whose duty it shall be to administer and strictly enforce the following:

(a) No person shall be permitted to work in compressed air until after he shall have been examined by such medical officer and reported by such officer to the person in charge thereof as found to be qualified, physically, to engage in such work.

(b) In the event of absence from work, by an employee for ten or more successive days for any cause, he shall not resume work until he shall have been re-examined by the medical officer and his physical condition reported as hitherto provided to be such as to permit him to work in compressed air.

(c) No person known to be addicted to the excessive use of intoxicants shall be permitted to work in compressed air.

(d) No person not having previously worked in compressed air shall be permitted during the first twenty-four hours of his employment to work for longer than one-half of a day period as provided in section one hundred and thirty-four-a and after so working shall be re-examined and not permitted to work in a place where the pressure is in excess of fifteen pounds unless his physical condition be reported by the medical officer as heretofore provided to be such as to qualify him for such work. [Subd. (d) *am'd* by L. 1912, ch. 219.]

(e) After a person has been employed continuously in compressed air for a period of three months he shall be re-examined by the medical officer and he shall not be allowed, permitted or compelled to work until such examination has been made and he has been reported as heretofore provided as physically qualified to engage in compressed air work.

(f) The said medical officer shall at all times keep a complete and full record of examinations made by him, which record shall contain dates on which examinations were made and a clear and full description of the person examined, his age and physical condition at the time examined, also the statement as to the time such person has been engaged in like employment.

(g) Properly heated, lighted and ventilated dressing rooms shall be provided for all employees in compressed air which shall contain lockers and benches and shall be open and accessible to the men during the intermission between shifts. Such rooms shall be provided with baths, with hot and cold water service and a proper and sanitary toilet.

(h) A medical lock shall be established and maintained in connection with all work in compressed air when the maximum pressure exceeds seventeen pounds as herein provided. Such lock shall be kept properly heated, lighted and ventilated and shall contain proper medical and surgical equipment. Such lock shall be in charge of a certified trained nurse selected by the medical officer, who shall be qualified to render temporary relief. [Subd. (h) *am'd* by L. 1912, ch. 219; L. 1913, ch. 528.]

The "certified trained nurse" required by subdivision h means a "registered nurse" as described in § 250 of the Public Health Law: Opinion of Attorney-General, October 29, 1912.

(i) Whenever in the prosecution of caisson work in which compressed air is employed the working chamber is less than ten feet in length and when such caissons are at any time suspended or hung while work is in progress so that the bottom of the excavation is more than nine feet below the deck of the working chamber, a shield shall be erected in the working chamber for the protection of the workmen. [Subd. (i) *added* by L. 1915, ch. 528.]

(j) Whenever in the prosecution of work in which compressed air is employed a shaft is used, all such shafts shall be provided with a safe, proper and suitable ladder for its entire length. [Subd. (j) *added* by L. 1913, ch. 528.]

(k) Wherever in the prosecution of work in tunnels, caissons or other apparatus or means, in which compressed air is employed or used, lights other than electric lights are used, the said lights shall at all times be guarded. [Subd. (k) *added* by L. 1913, ch. 528.]

(l) All passage ways in work, wherein compressed air is employed or used, shall be kept clear and properly lighted. [Subd. (l) *added* by L. 1913,

ch. 528. *Section 134-b added by L. 1909, ch. 291; am'd by L. 1912, ch. 219; and L. 1913, ch. 528.*]

§ 134-c. **Penalties.**—Every person who, or corporation which, shall violate or fail to comply with any of the foregoing provisions shall be guilty of a misdemeanor which shall be punishable by a fine of not less than two hundred and fifty dollars or imprisonment for one year or both. [*Added by L. 1909, ch. 291.*]

§ 134-d. All work in the prosecution of which tunnels, caissons or other apparatus or means within which compressed air is employed* shall have at least two air pipes or lines connected at all times and in perfect working condition. [*Added by L. 1912, ch. 219.*]

§ 134-e. Wherever electricity is used as lighting apparatus the light supplied for the shaft leading to the caisson or tunnel or other apparatus wherein the men are actually at work shall be supplied from a different wire from the lights which are located at the point wherein the men are actually working under air. [*Added by L. 1912, ch. 219.*]

§ 135. **Enforcement of article.**—The commissioner of labor may serve a written notice upon the owner, agent, manager or lessee of a mine or tunnel requiring him to comply with a specified provision of this article. The commissioner of labor shall begin an action in the supreme court to enforce compliance with such provision; and upon such notice as the court directs an order may be granted, restraining the working of such mine or tunnel during such time as may be therein specified.

§ 136. **Admission of inspectors to mines and tunnels.**—The owner, agent, manager or lessee of a mine or tunnel, at any time, either day or night, shall admit to such mine or tunnel, or any building used in the operation thereof, the commissioner of labor or any qualified person duly authorized by him, for the purpose of making the examinations and inspections necessary for the enforcement of this article, and shall render any necessary assistance for such inspections.

RULES AND REGULATIONS PRESCRIBED BY THE COMMISSIONER OF LABOR

[*By authority of §§ 120 and 125, above*]

FOR MINES AND QUARRIES

[*These rules are now (April, 1915) under revision by the Industrial Board*]

Superintendent.—1. The superintendent of a mine or quarry shall pay particular attention to discipline. All inspections shall be reported to him. He shall see that all the provisions of the law and of these rules are enforced in such mine or quarry. He shall watch all work done by contractors to see that they comply with the law and these rules.

Daily inspection.—2. The superintendent shall designate a competent person, who shall each day make an inspection of all mining appliances, or quarrying appliances, boilers, engines, magazines, shafts, shafthouses, underground workings, roofs, pillars, timbers, explosives, bell-ropes, telephones, operating tubes, tracks, ladders, etc., and report any defects to the superintendent, in writing, at once.

Boilers.—3. Superintendents shall require a strict compliance with § 124 of the Labor Law regarding boiler inspection. Boilers shall be examined daily, and any imperfections reported to the master mechanic or superintendent at once.

* The words "are used" are not in original but should evidently be supplied.

Timbering.—4. Timber shall be of ample size and strength and shall be used freely and wherever there is any chance of danger. Only new or properly seasoned timber shall be used, and shall be inspected carefully for rot or other defects before using and periodically thereafter.

Air.—5. The use of air instead of steam for drilling in all underground workings is advised.

Signals.—6. Special attention shall be given to the matter of signals and to keeping the appliances therefor in order. The bell line shall be of ample strength and kept free and clear of all rock and timbers. Shafts of 400 feet or over shall have speaking tubes or telephones from the foot of the shaft to the engine-room. A code of signals shall be posted at different parts of the workings and particularly at the shafthead, together with a notice of a penalty for wrong signals. Wrong signals should be severely punished.

Ladderways.—7. Ladders shall be strong and intact. In vertical shafts and in deep, pitching inclines there should be landings not more than twenty feet apart, and closely covered except a hole large enough for a man to pass to the next ladder. In inclines, there shall be a hand-rail attached to the ladder, and wherever possible steps should be used with hand-rail attached.

The shaft.—8. The shafthead shall be covered and guarded so as to prevent accidents from persons falling into it, or from foreign objects dropping down. Automatic doors should, in most cases, be used. The manway shall be around and not across the shafthead. The timbering of the shaft shall be sounded and examined often, as it decays rapidly under certain conditions. Inside shafts, winzes, and chutes shall be carefully guarded. When sinking or continuing a shaft below levels where the work of mining is being carried on, the collars at the lower level shall be covered to prevent objects from falling down the shaft, and such covering should be composed of timber not less than four inches in thickness; and where a cage is used a bonnet shall be placed over it.

Holisting engineers.—9. Superintendents shall use extraordinary care to see that their engineers are mentally and physically qualified for their positions. Where persons are lowered into or hoisted out of a mine or quarry, engineers shall be not less than 21, otherwise not less than 18 years of age. They shall never delegate the control of the machinery to any other person, and no one shall interfere with them in their duties.

10. The holisting engineer shall be in constant attendance at his engine or boilers whenever there are workmen underground.

11. The engineer shall not permit any one to enter or loiter in the engine-room except those required by their positions or duties to do so, and he shall hold no conversation with any one while the engine is in motion or while his attention should be occupied with signals. A notice to that effect shall be posted on the door of the engine house.

12. The engineer must thoroughly understand the code of signals, which must be delivered in the engine room in a clear and unmistakable manner; and when he receives a signal that men are in the cage or carriage he must work his engine with extra care and only at a moderate rate of speed.

13. The engineer or some other specifically designated and properly qualified employee must keep a careful watch over the engine, boilers, pumps, ropes and winding apparatus, and see that boilers are supplied with water, cleaned and inspected at frequent intervals and that the steam pressure does not exceed the prescribed limit; and he shall frequently try the safety valves and shall not increase the weights thereon. He shall see that the steam and water gauges are always in good order, and if any of the pumps, valves or gauges become deranged, he shall promptly report the facts to his superiors.

Holisting machinery.—14. Machinery used for lowering or raising employees into or out of mines, and stairs and ladders for ingress and egress shall be kept in a safe condition and inspected each twenty-four hours by a competent person especially designated for that purpose.

15. The operator, or superintendent shall provide and maintain from the top to the bottom of every shaft where persons are raised or lowered, a telephone or a metal tube suitably adapted to the free passage of sound, through which conversation may be held between persons at the top and bottom of said shaft, and also other means of signaling from the top to the bottom thereof, and shall provide every cage or gear carriage used for hoisting or lowering persons with a proper safety catch and with a sufficient overhead covering to protect them while using it. And he shall see that the flanges, with a clearance of not less than four inches where the whole of the rope is wound on the drum, are attached to the side of the drum of every machine that is used for lowering and hoisting persons; that adequate brakes are attached to the drum, and that safety gates are so placed at all shafts as to prevent persons from falling in.

16. The main governing chain attached to the socket of the wire rope shall be made of the best quality of iron and shall be properly tested; and the bridle chain shall be attached to the hoisting rope above the socket from the top cross-piece of the carriage or cage so that no single chain shall be used for lowering or hoisting persons.

17. No greater number of persons shall be lowered or hoisted at any one time than may be allowed by the commissioner of labor; and notice of the maximum number allowed to be lowered or hoisted at any one time shall be kept posted in a conspicuous place at the top of the shaft.

Dangerous machinery.—18. All machinery about mines or quarries, in connection with which accidents are liable to occur, shall be suitably guarded or railed off.

Fire.—19. All oil, waste, candles, etc., shall be stored at a safe distance from the boiler-house, engine-room and shafthouse, and a quantity of water shall be stored at such place to guard against fire. All shafthouses shall have ample fire protection, and the appliances shall be kept in condition for instant use. All mining plants using steam should have a hose attached to the injector or feed pipe for use in case of fire.

Storing explosives.—20. All explosives shall be stored in a magazine provided for that purpose, and located far enough from the working-shaft, slope, tunnel or quarry, boiler-house or engine-room, so that in case the whole quantity should be exploded, there would be no danger, and all explosives in excess of what are needed for one shift shall be kept in the magazine. Such magazine should be fireproof, and so constructed that a modern rifle or pistol bullet cannot penetrate it. The thawing should be done by the hot water or steam bath method; the use of dry heat is absolutely prohibited. A receptacle for carrying explosives shall be provided. Exploders and powder shall not be kept in the same room. A suitable place separated from mine or quarry, boilers or engine-room shall be provided for preparing charges. One man shall have full charge of the magazine. (See further the special rules for handling dynamite.)

Blasting.—21. All blasting shall be done by one man and his helper, designated by the superintendent for that purpose. After blasting no one else shall be allowed in that part of the mine or quarry until the blaster has made a personal examination and pronounced "all over." If a blast misses fire, no one except the blaster and his helper shall be allowed in that part of the mine or quarry less than three hours thereafter unless and until the blaster has made a personal examination and pronounced "all safe." No person shall use or handle any explosives who is addicted to the use of intoxicants. All tamping of high explosives shall be done with a wooden bar. Timely and sufficient warning shall be given when a blast is about to be fired.

Posting of law, etc.—A copy of Article IX of the Labor Law and of all rules relating to health and safety of employees in mines and quarries, prescribed by the commissioner of labor, shall be kept posted in the works in such manner as to be available to all employees.

FOR STORING, KEEPING, MOVING, THAWING, CHARGING AND FIRING DYNAMITE

[These rules are now (April, 1915) under revision by the Industrial Board]

Storing and keeping.—1. Dynamite must be stored in a building separate and isolated from other buildings and from traffic. Caps and electric exploders and fuses must never be stored in the *same* building with the powder, but must always be kept apart until needed for preparing the charge.

Moving.—2. When dynamite is hauled in wagons, railway trains, mine cars or similar vehicles, the *greatest* care must be exercised, and neither percussion caps, exploders, fulminators, friction matches nor any other article of like nature shall be loaded or carried in the same wagon, car or vehicle.

Thawing powder.—3. All nitro-glycerine compounds freeze and become hard at about 42 degrees Fahrenheit, in which condition they will not readily explode. When large quantities are to be used, a separate building for thawing should be fitted with a small steam radiator. Use only exhaust steam for heating it, if possible keeping the temperature of the room at about 80 degrees Fahrenheit. In the part of the room farthest from the radiator, place the powder on racks to thaw. When but small quantities need to be thawed, a thawing kettle may be used, being two water-tight kettles (one smaller and placed inside the other), the cartridges placed in the smaller kettle, the space between the two kettles filled with hot water of from 120 to 130 degrees Fahrenheit, and the kettle fitted with a cover to retain the heat. Never place the kettle over the fire to heat. When more hot water is required, empty and fill again with hot water. Never attempt to thaw the powder by placing it in hot water or exposing it to the direct action of steam.

Precautions.—4. Powder must *never* be placed on, in or near hot steam pipes, steam boilers, a hot stove, nor any hot metal, nor exposed to radiated heat from a fire or hot stove. Never *roast*, toast or bake it in any way, nor take it near a blacksmith forge. Never allow *smoking* or fire of any description, nor leave any loose caps or fuse near it.

Preparing the charge.—5. Cut a piece of safety fuse to the right length and carefully insert the sawd cut end in a blasting cap. See that the cap is free from any particle of sawdust before inserting the fuse. Press the fuse gently into the cap as far as it will go. Crimp the open end of the cap tightly around the fuse with a pair of cap-nippers, but under no condition disturb the fulminate or filling in the cap. Then open one end of the cartridge carefully, and with a sharpened lead pencil or pointed wooden stick, make a hole in the powder, insert the capped end of the fuse, being careful to see that at least one-fourth of an inch of the cap remains out of the powder. Then draw the paper closely about the fuse and tie in with a strong cord.

Charging the drill-hole.—6. Having properly prepared the cartridges (being sure that none are frozen) push them gently to the bottom of the drilled hole with a wooden stick, putting the capped cartridge on top.

Tamping.—7. Having placed the required quantity of powder in the hole, cover with six or eight inches of loose tamping, press it down firmly with a *wooden* stick, after which the hole may be tamped to the top, ramming the tamping down hard. Never use an iron or metal bar. Wood is always sufficient.

Misfire.—8. In case of misfires, never attempt to remove the tamping or draw the charge; always drill a new hole.

FOR THE DAILY GUIDANCE OF EMPLOYEES

1. No employee shall ride on any loaded skip, car, cage or bucket nor walk up or down any slope, or shaft, while any skip, car, cage or bucket is above.

2. The pit boss shall carefully examine the hanging wall of all slopes, levels and working chambers daily.

3. Machine runners shall carefully examine and sound hanging wall at face working, and remove all loose rock or ore before proceeding to drill.

4. No employee shall handle any explosives nor do any blasting except the person or persons designated for that special purpose by the superintendent.

5. After blasting no one except the blaster or blasters shall be allowed in the part of the mine where such blast has been fired, until the blaster has made a personal examination, and pronounced all safe.

6. No iron or steel bar, unless tipped with six inches of copper or other soft metal, shall be used for tamping any explosive. When tamping dynamite, or other high explosives, wood only shall be used.

7. The mine superintendent or person designated by him shall examine daily all mining appliances and see that they are in safe condition.

8. Whenever a shot misses fire no one shall be allowed to return to that part of the mine or quarry in less than three hours, unless and until the blaster after a personal examination shall pronounce all safe.

9. No person addicted to the use of intoxicating drink shall have charge of any explosives, boiler, engine or hoist, nor shall any person be allowed in any part of the mine or quarry while under the influence of liquor.

FOR THE CONSTRUCTION OF TUNNELS

1. Whenever work in the construction of a tunnel or section thereof is in progress, there shall always be present some one competent person, representing the person, firm or corporation carrying on the work or the contractor for the particular section or subdivision thereof, who shall be in all respects responsible for full compliance therein with all provisions of law, and who for that purpose shall have authority to require all persons employed on the work to comply with such provisions.

2. In every tunnel or section thereof while under construction there shall be a competent person designated to make a regular inspection at least once every working day and to examine all engines, boilers, steam pipes, drills, air pipes, air gauges, air locks, dynamos, electric wiring, signaling apparatus, brakes, cages, buckets, hoists, cables, ropes, chains, ladders, ways, tracks, sides, roofs, timbers, supports and all apparatus and appliances; and he shall immediately upon discovery report any defect, in writing, to the person present in charge.

3. The person present in charge of the work in any tunnel or section thereof shall always be authorized and instructed in case of accidents to take all proper measures for the relief of all workmen injured therein. And he shall immediately report every such accident to the commissioner of labor in accordance with § 126 of the Labor Law.

4. Wherever possible all explosives shall be stored in a fire-proof magazine at a safe distance from the tunnel, its engines, power plant and machinery and from other buildings and traffic, and a place separate from the place of storage and with proper apparatus shall be provided for thawing dynamite or other high explosives if thawing be necessary. Where compliance with any of these provisions be impossible, only the safest and most approved manner and methods of handling and storing such explosives practicable under the circumstances, may be used instead; and then only under the regular direction and supervision of some competent engineer or superintendent of experience who shall be held responsible therefor. And the quantity of such high explosives shall always be limited according to law and local ordinances and the strictest demands of safety. In no tunnel shall more explosives be stored than are required for a single blast or one round of holes in the working face; unless the chief engineer shall certify in writing that for special and peculiar reasons it is safer or absolutely necessary to do otherwise, which certificate shall prescribe the limits to the amount of explosives to be allowed in the tunnel at any one time and shall be kept posted in a conspicuous place with the other rules hereinafter mentioned.

5. Only such persons as are selected and regularly designated by a competent engineer or superintendent of experience shall handle or transport the dynamite or other high explosives used in the construction of any tunnel; and extraordinary care shall be exercised in selecting therefor only such persons as are competent, careful and of good habits as to the use of liquor, and to see that they store, prepare, handle and transport all such explosives in the safest and most careful manner.

6. Only such persons as have been selected and regularly designated therefor by a competent engineer or superintendent of experience shall be allowed to prepare or set off blasts in any tunnel under construction, and extraordinary care shall be exercised in selecting therefor only such persons as are competent, experienced and of good habits as to the use of liquor. The person present in charge of the work in any tunnel or section thereof shall see to it that whenever blasting is in progress there is always one "blaster" in full charge in each section or in each separated heading therein, that his fellow workmen properly obey his orders and directions, that he personally supervises the fixing of all charges, the discharge of all blasts, etc., and that he does so carefully, in the safest manner and in accordance with the provisions of § 125 of the Labor Law.

7. Any code of signals in use in a tunnel under construction shall be explained in writing, and copies thereof, in such languages as may be necessary to be understood by all persons affected thereby, shall be kept posted in a conspicuous place near each entrance to such tunnel and in such other places as may be necessary to bring them to the attention of all such persons.

8. Copies of §§ 128, 125, 134-a and 134-b of the Labor Law, of the substance of the foregoing rules and of the working rules of the particular tunnel, in such languages as may be necessary to be understood by all persons working therein, shall be kept posted in a conspicuous place near each entrance to every tunnel.

FOR WORK OF EXCAVATION AND CONSTRUCTION OF TUNNELS CARRIED ON IN COMPRESSED AIR.—SUPPLEMENTING §§ 134-a and 134-b

LOCKS

Where practicable each bulkhead in the tunnel shall have at least two locks in perfect working condition.

The man lock shall be large enough so that those using it are not compelled to be in a cramped position.

The emergency lock shall be large enough to hold an entire heading shift.

Every lock must be lighted by electricity and shall contain a pressure gauge and a timepiece, and shall have a glass "bull's-eye" in each door or in each end.

Valves must be so arranged that the locks can be operated both from within and from without.

Each man lock shall be in charge of a competent lock tender.

LIGHT, SANITATION AND VENTILATION IN AIR CHAMBER

All lighting in compressed air chambers shall be by electricity only, except in cases of emergency.

Absolutely no nuisance shall be tolerated in the air chamber, and smoking shall be strictly prohibited.

No animals for hauling shall be permitted in the air chambers.

An air-supply pipe shall be carried as near to the face as may be practicable and necessary. The air shall be analyzed at least once in every forty-eight hours, and the percentage of CO₂ shall not be greater than 1/10 of one per cent above that of the air being compressed.

The exhaust valves shall be operated at certain intervals, especially after a blast, and men shall not be required to resume work after a blast until the gas and smoke have cleared sufficiently.

Persons in the air chamber must be able to communicate with the powerhouse on the surface by means of suitable devices at all times.

GAUGES

In addition to the gauges in the locks, an accurate gauge shall be maintained on the outer side of each bulkhead. These gauges shall be accessible at all times and shall be kept in accurate working order.

SAFETY SCREENS

Where practicable, safety screens shall be installed after the heading has proceeded beyond the bulkhead line.

GENERAL

A record of all men working in the air chambers shall be kept by a special man who shall remain outside the lock near the entrance. This record shall show the period of stay in the air chamber of each person and the time taken for decompression.

A liberal supply of hot coffee and sugar shall be supplied to men working in compressed air. Coffee must be heated by means other than direct steam.

ARTICLE 10

Bureau of Mediation and Arbitration

Section 140. Chief mediator.

- 141. Mediation and investigation.
- 142. Board of mediation and arbitration.
- 143. Arbitration by the board.
- 144. Decisions of board.
- 145. Annual report.
- 146. Submission of controversies to local arbitrators.
- 147. Consent; oath; powers of arbitrators.
- 148. Decision of arbitrators.

§ 140. Chief mediator.—There shall continue to be a bureau of mediation and arbitration. The second deputy commissioner of labor shall be the chief mediator of the state and in immediate charge of this bureau, but subject to the supervision and direction of the commissioner of labor.

Compare § 42, *ante*.

§ 141. Mediation and investigation.—Whenever a strike or lockout occurs or is seriously threatened an officer or agent of the bureau of mediation and arbitration shall, if practicable, proceed promptly to the locality thereof and endeavor by mediation to effect an amicable settlement of the controversy. If the commissioner of labor deems it advisable the board of mediation and arbitration may proceed to the locality and inquire into the cause thereof, and for that purpose shall have all the powers conferred upon it in the case of a controversy submitted to it for arbitration.

§ 142. Board of mediation and arbitration.—There shall continue to be a state board of mediation and arbitration, which shall consist of the chief mediator and two other officers of the department of labor to be from time to time designated by the commissioner of labor. The chief mediator when present shall be the chairman of the board. Two members of such board shall constitute a quorum for the transaction of business, and may hold meetings at any time or place within the state. Examinations or investigations ordered by the board may be held and taken by and before any of their number, if so directed, but a decision rendered in such a case shall not be deemed conclusive until approved by the board.

§ 143. Arbitration by the board.—A grievance or dispute between an employer and his employees may be submitted to the board of arbitration and mediation for their determination and settlement. Such submission shall be in writing, and contain a statement in detail of the grievance or dispute and the cause thereof, and also an agreement to abide the determination of the board, and during the investigation to continue in business or at work,

without a lockout or strike. Upon such submission, the board shall examine the matter in controversy. For the purpose of such inquiry they may subpoena witnesses, compel their attendance, take and hear testimony, and call for and examine books, papers and documents of any parties to the controversy. Subpoenas shall be issued by the chairman under the seal of the department of labor. Witnesses shall be allowed the same fees as in courts of record. The decision of the board must be rendered within ten days after the completion of the investigation.

§ 144. **Decisions of board.**—Within ten days after the completion of every arbitration, the board or a majority thereof shall render a decision, stating such details as will clearly show the nature of the controversy and the points disposed of by them, and make a written report of their findings of fact and of their recommendations to each party of the controversy. Every decision and report shall be filed in the office of the board and a copy thereof served upon each party to the controversy.

§ 145. **Annual report.**—The commissioner of labor shall make an annual report to the legislature of the operations of this bureau.

§ 146. **Submission of controversies to local arbitrators.**—A grievance or dispute between an employer and his employees may be submitted to a board of arbitrators, consisting of three persons, for hearing and settlement. When the employees concerned are members in good standing of a labor organization, one arbitrator may be appointed by such organization and one by the employer. The two so designated shall appoint a third, who shall be chairman of the board. If such employees are not members of a labor organization, a majority thereof at a meeting duly called for that purpose, may designate one arbitrator for such board.

§ 147. **Consent; oath; powers of arbitrators.**—Before entering upon his duties, each arbitrator so selected shall sign a consent to act and take and subscribe an oath to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be filed in the clerk's office of the county or counties where the controversy arose. When such board is ready for the transaction of business, it shall select one of its members to act as secretary, and notice of the time and place of hearing shall be given to the parties to the controversy. The board may, through its chairman, subpoena witnesses, compel their attendance and take and hear testimony. The board may make and enforce rules for its government and the transaction of the business before it, and fix its sessions and adjournments.

§ 148. **Decision of arbitrators.**—The board shall, within ten days after the close of the hearing, render a written decision signed by them giving such details as clearly show the nature of the controversy and the questions decided by them. One copy of the decision shall be filed in the office of the clerk of the county or counties where the controversy arose and one copy shall be transmitted to the bureau of mediation and arbitration.

ARTICLE 11

[Added by L. 1910, ch. 514, formerly art. 10-a; renumbered by L. 1913, ch. 145]

Bureau of Industries and Immigration

- Section 151. Bureau of industries and immigration.
 152. Special investigators.
 153. General powers and duties.
 154. Proceedings before the commissioner of labor.
 155. Registration and reports of employment agencies.
 156. The licensing and regulation of immigrant lodging places.
 156-a. Reports.

§ 151. Bureau of industries and immigration.—There shall be a bureau of industries and immigration, which shall be under the immediate charge of a chief investigator, but subject to the supervision and direction of the commissioner of labor.

Compare § 42, *ante*.

§ 152. Special investigators.—The commissioner of labor may appoint from time to time such number of special investigators and such other assistants as may be necessary to carry into effect the powers of the said bureau herein defined, who may be removed by him at any time. The special investigators may be divided into two grades. Each special investigator of the first grade shall receive an annual salary of fifteen hundred dollars, and each of the second grade an annual salary of twelve hundred dollars. [As am'd by L. 1912, ch. 543.]

§ 153. General powers and duties.—1. The commissioner of labor shall have the power to make full inquiry, examination and investigation into the condition, welfare and industrial opportunities of all aliens arriving and being within the state. He shall also have power to collect information with respect to the need and demand for labor by the several agricultural, industrial and other productive activities, including public works throughout the state; to gather information with respect to the supply of labor afforded by such aliens as shall from time to time arrive or be within the state; to ascertain the occupations for which such aliens shall be best adapted, and to bring about intercommunication between them and the several activities requiring labor which will best promote their respective needs; to investigate and determine the genuineness of any application for labor that may be received and the treatment accorded to those for whom employment shall be secured; to co-operate with the employment and immigration bureaus conducted under authority of the federal government, or by the government of any other state, and with public and philanthropic agencies designed to aid in the distribution and employment of labor; and to devise and carry out such other suitable methods as will tend to prevent or relieve congestion and obviate unemployment.

2. The commissioner of labor shall procure with the consent of the federal authorities complete lists giving the names, ages, and destination within the state of all alien children of school age, and such other facts as will tend to identify them and shall forthwith deliver copies of such lists to the commissioner of education or the several boards of education and school

boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of the education law relative to the compulsory attendance at school of children of school age.

3. The commissioner of labor shall further co-operate with the commissioner of education and with the several boards of education and school commissioners in the state to ascertain the necessity for and the extent to which instruction should be imparted to aliens within the state; to devise methods for the proper instruction of adult and minor aliens in the English language and other subjects, and in respect to the duties and rights of citizenship and the fundamental principles of the American system of government; and may establish and supervise classes and otherwise further their education. [*Subd. 3 am'd by L. 1912, ch. 543.*]

4. The commissioner of labor may enter and inspect all labor camps within the state, and any camp which he may have reasonable cause to believe is a labor camp; and shall inspect all employment and contract labor agencies dealing with aliens, or whenever he may have reasonable cause to believe that such employment or contract labor agencies deal with aliens; or who secure or negotiate contracts for their employment within the state; shall inspect all immigrant lodging places or all places where he has reasonable cause to believe that aliens are received, lodged, boarded or harbored; shall co-operate with other public authorities, to enforce all laws applicable to private bankers dealing with aliens and laborers; secure information with respect to such aliens who shall be in prisons, almshouses and insane asylums of the state, and who shall be deportable under the laws of the United States, and co-operate with the federal authorities and with such officials of the state having jurisdiction over such criminals, paupers and insane aliens who shall be confined as aforesaid, so as to facilitate the deportation of such persons as shall come within the provisions of the aforesaid laws of the United States, relating to deportation; shall investigate and inspect institutions established for the temporary shelter and care of aliens, and such philanthropic societies as shall be organized for the purpose of securing employment for or aiding in the distribution of aliens, and the methods by which they are conducted. [*Subd. 4 am'd by L. 1912, ch. 543.*]

5. The commissioner of labor shall investigate conditions prevailing at the various places where aliens are landed within this state, and at the several docks, ferries, railway stations and on trains and boats therein, and in co-operation with the proper authorities, afford them protection against frauds, crimes and exploitation; shall investigate any and all complaints with respect to frauds, extortion, incompetency and improper practices by notaries public, interpreters and other public officials, or by any other person or by any corporation, whether public or private, and present to the proper authorities the results of such investigation for action thereon; shall investigate and study the general social conditions of aliens within this state, for the purpose of inducing remedial action by the various agencies of the state possessing the requisite jurisdiction; and shall generally, in conjunction with existing public and private agencies, consider and devise means to promote the welfare of the state. [*Subd. 5 am'd by L. 1912, ch. 543.*]

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2. The commissioner of labor shall procure with the consent of the federal authorities complete lists giving the names, ages, and destination within the state of all alien children of school age, and such other facts as will tend to identify them and shall forthwith deliver copies of such lists to the commissioner of education or the several boards of education and school

boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of the education law relative to the compulsory attendance at school of children of school age.

3. The commissioner of labor shall further co-operate with the commissioner of education and with the several boards of education and school commissioners in the state to ascertain the necessity for and the extent to which instruction should be imparted to aliens within the state; to devise methods for the proper instruction of adult and minor aliens in the English language and other subjects, and in respect to the duties and rights of citizenship and the fundamental principles of the American system of government; and may establish and supervise classes and otherwise further their education. [*Subd. 3 am'd by L. 1912, ch. 543.*]

4. The commissioner of labor may enter and inspect all labor camps within the state, and any camp which he may have reasonable cause to believe is a labor camp; and shall inspect all employment and contract labor agencies dealing with aliens, or whenever he may have reasonable cause to believe that such employment or contract labor agencies deal with aliens; or who secure or negotiate contracts for their employment within the state; shall inspect all immigrant lodging places or all places where he has reasonable cause to believe that aliens are received, lodged, boarded or harbored; shall co-operate with other public authorities, to enforce all laws applicable to private bankers dealing with aliens and laborers; secure information with respect to such aliens who shall be in prisons, almshouses and insane asylums of the state, and who shall be deportable under the laws of the United States, and co-operate with the federal authorities and with such officials of the state having jurisdiction over such criminals, paupers and insane aliens who shall be confined as aforesaid, so as to facilitate the deportation of such persons as shall come within the provisions of the aforesaid laws of the United States, relating to deportation; shall investigate and inspect institutions established for the temporary shelter and care of aliens, and such philanthropic societies as shall be organized for the purpose of securing employment for or aiding in the distribution of aliens, and the methods by which they are conducted. [*Subd. 4 am'd by L. 1912, ch. 543.*]

5. The commissioner of labor shall investigate conditions prevailing at the various places where aliens are landed within this state, and at the several docks, ferries, railway stations and on trains and boats therein, and in co-operation with the proper authorities, afford them protection against frauds, crimes and exploitation; shall investigate any and all complaints with respect to frauds, extortion, incompetency and improper practices by notaries public, interpreters and other public officials, or by any other person or by any corporation, whether public or private, and present to the proper authorities the results of such investigation for action thereon; shall investigate and study the general social conditions of aliens within this state, for the purpose of inducing remedial action by the various agencies of the state possessing the requisite jurisdiction; and shall generally, in conjunction with existing public and private agencies, consider and devise means to promote the welfare of the state. [*Subd. 5 am'd by L. 1912, ch. 543.*]

§ 154. Proceedings before the commissioner of labor.—Any investigation, inquiry or hearing which the commissioner of labor has power to undertake or to hold may by special authorization from the commissioner of labor, be undertaken or held by or before the chief investigator, or any official whom he may designate, and any decision rendered on such investigation, inquiry or hearing, when approved, and confirmed by the commissioner and ordered filed in his office, shall be and be deemed to be the order of the commissioner. All hearings before the commissioner or chief investigator or official duly designated therefor shall be governed by rules to be adopted and prescribed by the commissioner. The commissioner or chief investigator or official duly designated therefor shall not be bound by technical rules of evidence, and shall have the power to subpoena any witness or any person, and to examine all books, contracts, records and documents of any person or corporation and by subpoena duces tecum to compel production thereof, and to effect as far as practicable an amicable settlement or adjustment of any such complaint. Such subpoena shall be issued by the commissioner or chief investigator under the seal of the department of labor. No person shall be excused from testifying or from producing any books or papers on any investigation or inquiry by or upon any hearing before the commissioner or chief investigator, or official duly designated thereof,* when ordered to do so, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture, for or on account of any act, transaction, matter or thing, concerning which he shall under oath have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. [*As am'd by L. 1912, ch. 543.*]

§ 155. Registration and reports of employment agencies.—The term "employment agency" as used in this act shall include any person, firm, corporation or association regularly engaging in the business of negotiating labor contracts or of receiving applications for help or labor, or for places or positions, excepting such as shall conduct agencies exclusively for procuring employment for teachers, for incumbents of technical, clerical or executive positions, for vaudeville or theatrical performers, musicians or nurses, and also excepting bureaus conducted by registered agricultural or medical institutions and, excepting also departments maintained by persons, firms, corporations or associations for the purpose of securing help for themselves where no fee is charged the applicant for employment. All employment agencies other than those herein excepted shall on or before the first day of October, nineteen hundred and ten, and annually thereafter, file with the commissioner of labor a statement containing the name of the person, firm, corporation or association conducting such agency, the street and number of the place where the same shall be conducted and showing whether said agency is licensed or unlicensed, and if licensed, specifying the date and duration of the license, by whom granted and the number thereof. Such statements shall be registered by the commissioner. Every such employment agency shall keep in the office thereof a full record of the country of the birth of those for whom

* So in original.

places or positions are secured, their length of residence in this country, and the name and address of the person, firm or corporation to whom the persons for whom such places or positions are secured shall be sent, the occupation for which employment shall be secured, and the compensation to be paid to the person employed. The books and records of every such agency shall at all reasonable hours be subject to examination by the commissioner of labor. Any person who shall fail to register with the commissioner of labor or to keep books or records shall be guilty of a misdemeanor and shall be punishable for the first offense by a fine of not less than ten dollars, nor more than twenty-five dollars, and for every subsequent offense by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

See also § 66-p, *ante*; § 179 of General Business Law, p. 293, *post*.

§ 156. The licensing and regulation of immigrant lodging places.—1. No person shall hereafter, directly or indirectly, own, conduct or keep an immigrant lodging place without having first obtained from the commissioner of labor a license therefor. Before receiving such license the applicant therefor shall file with the commissioner of labor, in such form as he may prescribe, a statement certified by such applicant, or if said applicant is a corporation, by one of its officers, designating the location of the immigrant lodging place for which a license shall be requested, and specifying the number of boarders or lodgers received by said applicant at any one time during the year preceding such application at the place for which a license is sought, or if no business shall have previously been conducted at said place the maximum number of boarders or lodgers which it will accommodate. With such application there shall be presented to the commissioner of labor proof of the good moral character of the applicant, and in case such applicant is a corporation, of its officers, and in addition thereto *[, in the discretion of the commissioner of labor,] a bond to the people of the state of New York, with two or more sureties or of a surety company approved by the commissioner of labor, conditioned that the obligor shall obey all laws, rules and regulations applicable to such immigrant lodging place prescribed by any lawful authority, and that such obligor shall discharge all obligations and pay all damages, loss and injuries which shall accrue to any person or persons dealing with such licensee, by reason of any contract or other obligation of such licensee, or resulting from any fraud or deceit, conversion of property, oppression, excessive charges, or other wrongful act of said licensee or of his servants or agents in connection with the business so licensed. Where the number of boarders or lodgers specified in said application shall not exceed ten persons the penalty of said bond shall be one hundred dollars, where it shall be more than ten and less than fifty persons it shall be two hundred and fifty dollars, and where the number shall be more than fifty it shall be five hundred dollars. Any person aggrieved may bring an action for the enforcement of such bond in

* This phrase was inserted by L. 1912, ch. 337, approved April 15, but was not included in the amendment made by L. 1912, ch. 543, approved April 19. According to the general rule of construction that the latest amendatory act supersedes prior ones, the courts would probably hold that the above phrase is not a part of the law.

any court of competent jurisdiction. On the approval of the application for said license and of the bond filed therewith the commissioner of labor shall issue a license authorizing the applicant to own, conduct and manage an immigrant lodging place at the place designated in the application and to be specified in the license certificate. For such license the applicant shall pay to the commissioner of labor a fee of five dollars where the number of boarders or lodgers stated in the application does not exceed ten, a fee of ten dollars where such number exceeds ten and does not exceed fifty, and a fee of twenty-five dollars where such number exceeds fifty. Such license shall not be transferable without the consent of the commissioner of labor, nor authorize the conduct of an immigrant lodging place on any other premises than those described in the application. Such license shall be renewable annually on the payment of a fee based on the maximum number of boarders and lodgers received by the licensee at the place licensed during the preceding year, as shown in a sworn statement filed by such applicant in such form as the commissioner of labor shall prescribe. The commissioner of labor shall keep a book or books in which the licenses granted and the bonds filed shall be entered in alphabetical order, together with a statement of the date of the issuance of the license, the name or names of the principals, the place where the business licensed is to be transacted, the names of the sureties upon the bond filed and the amount of the license fee paid by the licensee. [*Subd. 1 am'd by L. 1912, ch. 543.*]

2. Every licensee shall keep conspicuously posted in the public rooms and in each bedroom of the place licensed a statement printed in the English language and in the language understood by the majority of the patrons of said place, specifying the rate of charges by the day and week for lodging, for meals supplied, for the transportation of passengers and baggage, the services of guides, and other service rendered to such patrons. No sum shall be charged or received by or for the licensee in excess of such posted rates for any service rendered, and payment shall not be enforceable for any charge in excess of such rates. A copy of the rates so posted shall be filed by the licensee with the commissioner of labor, and no increased rate shall be charged or received until a revised schedule showing such increase shall have been filed with the commissioner of labor. Every such licensee shall likewise file with the commissioner of labor a list specifying the names and addresses of every person employed by such licensee as a runner, guide or other employee, and showing whether such person is employed at a salary or on commission.

3. A license granted hereunder shall be revocable by the commissioner of labor on notice to the licensee and for cause shown.

4. The term immigrant lodging place as used in this section includes any place, boarding house, lodging house, inn or hotel where immigrants or emigrants while in transit, or aliens are received, lodged, boarded or harbored, which shall not include any place maintained or conducted by a charitable, philanthropic or religious society, association or corporation. Nothing contained herein shall be held to apply to temporary sleeping quarters in labor or construction camps.

5. Any person or any officer of a corporation owning, conducting or managing an immigrant lodging place without having obtained from the com-

missioner of labor a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, or who shall violate any of the provisions of this section, shall be guilty of a misdemeanor.

6. The license fees collected hereunder shall be paid to the comptroller and shall constitute a fund to be used in the joint discretion of the comptroller and commissioner of labor for the expenses necessary for carrying out the provisions of this section. [*Section 156 added as section 156-a by L. 1911, ch. 845; am'd and renumbered by L. 1912, ch. 543.*]

Further legislative action is necessary for the disposition of this fund in conformity with the requirement of the state constitution that every appropriation shall distinctly specify the amount appropriated: Opinion of Attorney-General, January 8, 1912.

§ 156-a. Reports.—The commissioner of labor shall make an annual report to the legislature of the operation of this bureau. [*Originally § 156; renumbered by L. 1912, ch. 543.*]

ARTICLE 12

[*Formerly article 11; renumbered by L. 1913, ch. 145*]

Employment of Women and Children in Mercantile Establishments:

[*Until October 1, 1908, the enforcement of this article everywhere was in the hands of local boards of health. Enforcement in cities of the first class was transferred to the department of labor on October 1, 1908, and in cities of the second class on March 28, 1913; elsewhere enforcement remains as before: § 172. Non-compliance with provisions is a misdemeanor: Penal Law, § 1275, p. —, post.*]

Section 160. Application of article.

- 161. Hours of labor of minors.
- 161-a. Hours of labor of messengers.
- 162. Employment of children.
- 163. Employment certificate; how issued.
- 164. Contents of certificate.
- 165. School record, what to contain.
- 166. Supervision over issuance of certificates.
- 167. Registry of children employed.
- 168. Wash-rooms and water-closets.
- 169. Lunch rooms.
- 170. Seats for women in mercantile establishments.
- 171. Employment of women and children in basements.
- 172. Enforcement of article.
- 173. Laws to be posted.

§ 160. Application of article.—The provisions of this article shall apply to all villages and cities which at the last preceding state enumeration had a population of three thousand or more.

§ 161. Hours of labor of minors and women; time for meals.—1. No child under the age of sixteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, business office, telegraph office, restaurant, hotel, apartment house, theater or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, or in

* For general note giving references to other laws relative to employment of minors, see under "Child Labor," p. 172, *post*.

the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles more than six days or forty-eight hours in any one week, or more than eight hours in any one day, or before eight o'clock in the morning or after six o'clock in the evening of any day. The foregoing provision shall not apply to any employment prohibited or regulated by section four hundred and eighty-five of the penal law.

For exceptions relative to the distribution of newspapers see § 161-b, *post*.

2. No female employee over the age of sixteen years shall be required, permitted or suffered to work in or in connection with any mercantile establishment more than six days or fifty-four hours in any one week, or more than nine hours in any one day, unless for the purpose of making a shorter work day of some one day of the week; or before seven o'clock in the morning or after ten o'clock in the evening of any day. This section does not apply to the employment of persons sixteen years of age or upward between the eighteenth day of December and the following twenty-fourth day of December, both inclusive.

The subdivision does not ordinarily apply to restaurants and lunch rooms: Opinion of Attorney-General, May 2, 1914.

The provision for lengthening the working hours of one or more days for the purpose of shortening some one work day is applicable to second-class cities as well as to other localities: Opinion of Attorney-General, May 24, 1913.

The section does not permit the shortening of more than one day: Opinion of Attorney-General, February 6, 1913; nor the lengthening of more than one day: Opinion of Attorney-General, December 8, 1914.

3. Not less than forty-five minutes shall be allowed for the noonday meal of the employees of any establishment specified in subdivision one hereof, unless the commissioner of labor shall permit a shorter time. Such permit shall be kept conspicuously posted in the main entrance of the establishment, but it may be revoked at any time. Whenever any employee is employed or permitted to work after seven o'clock in the evening, such employee shall be allowed at least twenty minutes to obtain lunch or supper between five and seven o'clock in the evening. [Section 161 *am'd* by L. 1910, ch. 387; L. 1911, ch. 866; and L. 1913, ch. 493; *am'd* and subdivided by L. 1914, ch. 331.]

The power of the Commissioner of Labor to permit a shorter noon interval extends outside cities of the first and second class: Opinion of Attorney-General, September 22, 1914.

The provision relative to lunch or supper interval applies to all employees irrespective of age or sex: Opinion of Attorney-General, January 29, 1914.

Compare this section with § 77, *ante*.

§ 161-a. Hours of labor of messengers.—In cities of the first or second class no person under the age of twenty-one years shall be employed or permitted to work as a messenger for a telegraph or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening of any day. [Added by L. 1910, ch. 342.]

Compare Article 15, *post*, as to employment of children in street trades; Penal Law, § 488, p. 180, *post*.

§ 161-b. Employment of children in carrying and distributing newspapers.—Upon obtaining a permit and badge as provided by this section, a male

child over twelve years of age between the close of school and six-thirty o'clock in the afternoon and a male child over fourteen years of age between five-thirty and eight o'clock in the morning may be employed to carry and distribute newspapers on a newspaper route in a city or village, if no other work or employment be required or permitted to be done by any such child during that time. The badge or permit required by this section shall be issued to such child by the district superintendent or the board of education of the city or village and school district where such child resides, or by such other officer thereof as may be officially designated by such board for that purpose, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case such child has no parent, guardian or custodian then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age prescribed by this section, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of the normal development of a child of his age and physically fit for such employment, and that such principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and describe the color of hair and eyes, the height and weight and any distinguishing facial mark of such child, and shall further state that the papers required by this section have been duly examined and filed; and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding with the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the presence of the officer issuing the same by the child in whose name it is issued. The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city or village in distributing newspapers without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police or attendance officer. [Added by L. 1914, ch. 21.]

§ 162. **Employment of children.**—No child under the age of fourteen years shall be employed or permitted to work in or in connection with any mercantile or other business or establishment specified in the preceding section. No child under the age of sixteen years shall be so employed or permitted to work unless an employment certificate, issued as provided in

this article, shall have been theretofore filed in the office of the employer at the place of employment of such child. [*As am'd by L. 1909, ch. 293, and by L. 1911, ch. 866.*]

Compare § 70, *ante*, and Education Law, §§ 626, 628, pp. 174, 175, *post*.

Section 488 of the Penal Law makes it a misdemeanor to send a messenger boy into disorderly houses, unlicensed saloons, etc.

§ 163. **Employment certificate; how issued.**—Such certificate shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides or is to be employed, or by such officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent, guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, viz.: The school record of such child properly filled out and signed as provided in this article; also, evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) **Birth certificate.**—A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births which certificate shall be conclusive evidence of the age of such child.

(b) **Certificate of graduation.**—A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) **Passport or baptismal certificate.**—A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) **Other documentary evidence.**—In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in said subdivisions can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) **Physicians' certificates.** In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificate as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child shall further have personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In every case, before an employment certificate is issued, such physical fitness shall be determined by a medical officer of the department or board of health, who shall make a thorough physical examination of the child and record the result thereof on a blank to be furnished for the purpose by the commissioner of labor and shall set forth thereon such facts concerning the physical condition and history of the child as the commissioner of labor may require. Every such employment certificate shall be signed in the presence of the officer issuing the same, by the child in whose name it is issued. [*Subd. (e) am'd by L. 1913, ch. 144.*]

Compare § 71, *ante*, and note. False statement in relation to the certificate or application therefor is specifically denounced as a misdemeanor by the Penal Law, § 1275, p. 171, *post*.

§ 164. Contents of certificate.—Such certificate shall state the date and place of birth of the child, and describe the color of hair and eyes and the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Identical with § 72, *ante*.

§ 165. School record what to contain.—The school record required by this article shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished on demand to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday, or during the twelve months next preceding his application for such school record, and is able to read and write simple sentences in the English language, has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions and has completed the work prescribed for the first six years of the public elementary school or school equivalent thereto or parochial school, from which such school record is issued. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian. [*As am'd by L. 1913, ch. 144.*]

Identical with § 73, *ante*. Compare Education Law, § 630, p. 175, *post*.

§ 166. Supervision over issuance of certificates.—The board or department of health or health commissioner of a city, village or town shall transmit between the first and tenth day of each month to the commissioner of labor a list of the names of all children to whom certificates have been issued during the preceding month, together with a duplicate record of all examinations as to physical fitness, including those resulting in rejection. In cities of the first and second class all employment certificates and school records required under the provisions of this chapter shall be in such form as shall be approved by the commissioner of labor. In towns, villages or cities other than cities of the first or second class, the commissioner of labor shall prepare and furnish blank forms for such employment certificates and school records. No school record or employment certificate required by this article other than those approved or furnished by the commissioner of labor as above provided shall be used. The commissioner of labor shall inquire into the administration and enforcement of the provisions of this article by all public officers charged with the duty of issuing employment certificates, and for that purpose the commissioner of labor shall have access to all papers and records required to be kept by all such officers. [*Added by L. 1913, ch. 144.*]

§ 167. Registry of children employed.—The owner, manager or agent of a mercantile or other establishment specified in section one hundred and sixty-

one, employing children, shall keep or cause to be kept in the office of such establishment, a register, in which shall be recorded the name, birthplace, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection, upon the demand of an officer of the board, department or commissioner of health of the town, village or city where such establishment is situated, or if such establishment is situated in a city of the first or second class, upon the demand of the commissioner of labor. On termination of the employment of the child so registered and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. An officer of the board, department or commissioner of health of the town, village or city where a mercantile or other establishment mentioned in this article is situated, or if such establishment is situated in a city of the first or second class the commissioner of labor may make demand on an employer in whose establishment a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this chapter, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such establishment. The officer may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said establishment, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall, except in cities of the first and second class, be filed with the board, department or commissioner of health, and in cities of the first and second class with the commissioner of labor, and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the officer of the board, department or commissioner of health, or in cities of the first and second class to the commissioner of labor, within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such mercantile or other establishment, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed. [*As am'd by L. 1913, ch. 145.*]

Compare § 76, *ante*.

§ 168. Cleanliness of rooms.—Every room in a mercantile establishment and the floor, walls, ceilings, windows and every other part thereof and all

fixtures therein shall at all times be kept in a clean and sanitary condition. Floors shall, at all times, be maintained in a safe condition. Suitable receptacles shall be provided and used for the storage of waste and refuse; such receptacles shall be maintained in a sanitary condition. [*As am'd by L. 1911, ch. 866; L. 1913, ch. 145; and L. 1914, ch. 183.*]

Compare special requirements for factories in § 88; and for bakeries in §§ 112, 113, *ante*.

§ 168-a. Cleanliness of buildings.—Every part of a building in which a mercantile establishment is located and of the premises thereof and the yards, courts, passages, areas or alleys connected with or belonging to the same, shall be kept free from any accumulation of dirt, filth, rubbish or garbage. The roof, passages, stairs, halls, basements, cellars, privies, water-closets, and all other parts of such building and the premises thereof shall at all times be kept in a clean, sanitary and safe condition. The entire building and premises shall be well drained and the plumbing, cesspools and drains thereof at all times kept in proper repair and in a sanitary condition. [*Added by L. 1914, ch. 183.*]

§ 168-b. Drinking water.—In every mercantile establishment there shall be provided at all times for the use of employees a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water used for domestic purposes, or from a spring or well or body of pure water. If such drinking water be placed in receptacles in the mercantile establishment, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals. [*Added by L. 1914, ch. 183.*]

Compare special requirements for factories, § 88, subd. 1, *ante*.

§ 168-c. Wash-rooms and washing facilities.—In every mercantile establishment there shall be provided and maintained for the use of employees adequate and convenient wash-rooms, or washing facilities. Such washing facilities shall consist of sinks or stationary basins provided with running water or with tanks holding an adequate supply of clean water and shall be separate for each sex wherever required by the rules of the industrial board. Every wash-room shall be provided with adequate means of ventilation and heating and artificial illumination. [*Added by L. 1914, ch. 183.*]

Compare special requirements for factories, § 88, subd. 2, *ante*.

§ 168-d. Dressing rooms.—In every mercantile establishment where more than five women are employed a sufficient number of dressing rooms conveniently located shall be provided for their use. Each dressing room shall be properly ventilated by a window or by suitable ducts leading to the outer air and shall be enclosed by partitions or walls. Each dressing room shall be provided with adequate means for artificial illumination, suitable means for hanging clothes and a suitable number of seats and shall be properly heated and ventilated. Each dressing room shall be separated from any water-closet compartment by adequate partitions. Adequate floor space shall be provided in dressing rooms in proportion to the number of employees. Where more than ten women are employed such dressing room shall have a floor space of not less than sixty square feet and shall have at least one window opening to the outer air. [*Added by L. 1914, ch. 183.*]

Compare special requirements for factories, § 88, subd. 3, *ante*.

§ 168-e. Water-closets.—1. There shall be provided for every mercantile establishment a sufficient number of suitable and convenient water-closets. All water-closets shall be maintained inside the mercantile establishment except where, in the opinion of the commissioner, it is impracticable to do so.

2. There shall be separate water-closet compartments or toilet rooms for females, to be used by them exclusively, and notice to that effect shall be clearly marked at the entrance of such compartments or rooms. The entrance to every water-closet shall be effectively screened by a partition or vestibule. Where water-closets for males and females are in adjoining compartments or toilet rooms, there shall be partitions of substantial construction between the compartments or rooms extending from the floor to the ceiling and such partitions shall be plastered or metal covered to a sufficient height. Whenever any water-closet compartments open directly into the workroom, exposing the interior, they shall be screened from view by a partition or a vestibule. The use of curtains for screening purposes is prohibited.

3. The use of any form of trough water-closet, latrine or school sink within any mercantile establishment is prohibited except such fixtures in existence on the first day of October, nineteen hundred and fourteen, having a common flushing system and approved by the industrial board in its rules. All such trough water-closets, latrines or school sinks shall, before the first day of October, nineteen hundred and fifteen, be completely removed and the place where they were located properly disinfected under the direction of the department.

4. Every water-closet installed before October first, nineteen hundred and fourteen, inside any mercantile establishment shall have a basin of enameled iron or earthenware, and shall be flushed from a separate water-supplied cistern or through a proper valve connected in such manner as to keep the water supply of the establishment free from contamination.

5. All woodwork enclosing water-closet fixtures shall be removed from the front of the closet and the space underneath the seat shall be left open. All water-closet compartments or toilet rooms constructed before October first, nineteen hundred and fourteen, shall have windows opening directly to the outer air or shall be otherwise properly ventilated to the outer air by suitable ducts, and shall be provided with means for artificial illumination.

6. All water-closets, urinals, water-closet compartments and toilet rooms hereafter installed in a mercantile establishment, including those provided to replace existing fixtures shall be properly constructed, installed, ventilated, lighted and maintained in accordance with such rules as may be adopted by the industrial board.

7. All water-closet compartments and toilet rooms, and the floors, walls, ceilings and surface thereof, and all fixtures therein, and all water-closets and urinals shall at all times be maintained in a clean and sanitary condition. The floor or other surface beneath and around the closet shall be maintained in good order and repair and all the woodwork shall be kept well painted with a light colored paint. The enclosure of each compartment and toilet room shall be kept free from obscene writing or marking. Where the water supply to water-closets or urinals is liable to freeze, the water-closet compartment shall be properly heated so as to prevent freezing, or the supply and flush pipes, cisterns and traps and valves shall be effectively covered with

wool felt or hair felt, or other adequate covering. [Section 168-e added by L. 1914, ch. 183.]

Compare special requirements for factories, § 88-a; for foundries, § 97; for bakeries, §§ 112, 113.

§ 168-f. Ventilation.—Every mercantile establishment shall be provided with proper and sufficient means of ventilation by natural or mechanical means or both, as may be necessary and there shall be maintained therein proper and sufficient ventilation and proper degrees of temperature and humidity at all times during working hours. The industrial board shall make rules for and fix standards of ventilation, temperature and humidity in mercantile establishments. [Added by L. 1914, ch. 183.]

Compare special requirements for factories, §§ 86, 88; for tenement-factories, § 100, subd. 6; for mines and tunnels, § 122; for basements of mercantile establishments, § 171.

§ 169. Lunch-rooms.—If a lunch-room is provided in a mercantile establishment where females are employed, such lunch-room shall not be next to or adjoining the water-closets, unless permission is first obtained from the board or department of health or health commissioners of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first or second class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that proper sanitary conditions do not exist, and it may be revoked at any time by the board or department of health or health commissioners, if it appears that such lunch-room is kept in a manner or in a part of a building injurious to the health of the employees, unless such establishment is situated in a city of the first or second class, in which case said permission may be so revoked by the commissioner of labor. [As am'd by L. 1913, ch. 145.]

Compare § 89-a, *ante*.

§ 170. Seats for women in mercantile establishments.—Chairs, stools or other suitable seats shall be maintained in mercantile establishments for the use of female employees therein, to the number of at least one seat for every three females employed, and the use thereof by such employees shall be allowed at such times and to such extent as may be necessary for the preservation of their health. If the duties of the female employees, for the use of whom the seats are furnished, are to be principally performed in front of a counter, table, desk or fixture, such seats shall be placed in front thereof; if such duties are to be principally performed behind such counter, table, desk or fixture, such seats shall be placed behind the same.

Compare §§ 17, 88, *ante*.

§ 171. Employment of women and children in basements.—Women or children shall not be employed or permitted to work in the basement of a mercantile establishment, unless permitted by the board or department of health, or health commissioner of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first or second class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted

unless it appears that such basement is not sufficiently lighted and ventilated, and is not in good sanitary condition. [*As am'd by L. 1913, ch. 145.*]

§ 172. Enforcement of article.—Except in cities of the first and second class the board or department of health or health commissioners of a town, village or city affected by this article shall enforce the same and prosecute all violations thereof. Proceedings to prosecute such violations must be begun within sixty days after the alleged offense was committed. All officers and members of such boards or department, all health commissioners, inspectors and other persons appointed or designated by such boards, departments or commissioners may visit and inspect, at reasonable hours and when practicable and necessary, all mercantile or other establishments herein specified within the town, village or city for which they are appointed. No person shall interfere with or prevent any such officer from making such visitations and inspections, nor shall he be obstructed or injured by force or otherwise while in the performance of his duties. All persons connected with any such mercantile or other establishment herein specified shall properly answer all questions asked by such officer or inspector in reference to any of the provisions of this article. In cities of the first and second class the commissioner of labor shall enforce the provisions of this article, and for that purpose he and his subordinates shall possess all powers herein conferred upon town, village, or city boards and departments of health and their commissioners, inspectors, and other officers, except that the board or department of health of said cities of the first and second class shall continue to issue employment certificates as provided in section one hundred and sixty-three of this chapter. [*As am'd by L. 1913, ch. 145.*]

§ 173. Laws to be posted.—A copy or abstract of applicable provisions of this chapter and of the rules and regulations of the industrial board to be prepared and furnished by the commissioner of labor shall be kept posted by the employer in a conspicuous place on each floor of every mercantile or other establishment specified in article twelve of this chapter situated in cities of the first or second class, wherein three or more persons are employed who are affected by such provisions. [*As am'd by L. 1913, ch. 145.*]

ARTICLE 13

Convict-made Goods and Duties of Commissioner of Labor Relative Thereto

[Compare § 620 of the Penal Law, p. 169, *post*. See also subject *Prison Labor*, pp. 238–245, *post*. As to constitutionality see *People v. Beattie*, 96 App. Div. 383; *People ex rel. Appel v. Zimmerman*, 102 App. Div. 103; *People v. Hawkins*, 157 N. Y. 1; and *People ex rel. Phillips v. Raynes*, 136 App. Div. 417, *aff'd* 198 N. Y. Mem. 39. Also *Constitution*, art. III, § 29, p. 238, *post*.]

Section 190. License for sale of convict-made goods.

191. Revocation of license.

192. Annual statement of licensee.

193. Labeling and marking convict-made goods.

194. Duties of commissioner of labor relative to violations; fines upon convictions.

195. Article not to apply to goods manufactured for use of state or a municipal corporation.

§ 190. License for sale of convict-made goods.—No person or corporation shall sell, or expose for sale, any convict-made goods, wares or merchandise,

either by sample or otherwise, without a license therefor. Such license may be obtained upon application in writing to the comptroller, setting forth the residence or post-office address of the applicant, the class of goods desired to be dealt in, the town, village or city, with the street number, if any, at which the business of such applicant is to be located. Such application shall be accompanied with a bond, executed by two or more responsible citizens, or some legally incorporated surety company authorized to do business in this state to be approved by the comptroller, in the sum of five thousand dollars, and conditioned that such applicant will comply with all the provisions of law relative to the sale of convict-made goods, wares and merchandise. Such license shall be for a term of one year unless sooner revoked. Such person or corporation shall pay, annually, on or before the fifteenth day of January, the sum of five hundred dollars as a license fee, into the treasury of the state, which amount shall be credited to the maintenance account of the state prisons.

Such license shall be kept conspicuously posted in the place of business of such licensee.

The requirement of a license as in this section is unconstitutional: *People ex rel. Phillips v. Raynes*, 136 App. Div. 417, aff'd 198 N. Y. Mem. 89.

Products of labor of prisoners in this state not to be sold: Const., art. III, § 29, p. 238, *post*.

§ 191. Revocation of license.—The comptroller may revoke the license of any such person or corporation, upon satisfactory evidence of, or upon conviction for the violation of any statute regulating the sale of convict-made goods, wares or merchandise; such revocation shall not be made until after due notice to the licensee so complained of. For the purpose of this section, the comptroller or any person duly appointed by him, may administer oaths and subpoena witnesses and take and hear testimony.

§ 192. Annual statement of licensee.—Each person or corporation so licensed shall, annually, on or before the fifteenth day of January, transmit to the secretary of state a verified statement setting forth:

1. The name of the person or corporation licensed.
2. The names of the persons, agents, wardens or keepers of any prison, jail, penitentiary, reformatory or establishment using convict labor, with whom he has done business, and the name and address of the person or corporation to whom he has sold goods, wares and merchandise, and
3. In general terms, the amount paid to each of such agents, wardens or keepers, for goods, wares or merchandise and the character thereof.

§ 193. Labeling and marking convict-made goods.—All goods, wares and merchandise made by convict labor in a penitentiary, prison, reformatory or other establishment in which convict labor is employed, shall be branded, labeled or marked as herein provided. The brand, label or mark, used for such purpose, shall contain at the head or top thereof, the words "convict-made," followed by the year when, and the name of the penitentiary, prison, reformatory or other establishment in which the article branded, labeled or marked was made.

Such brands, labels and marks shall be printed in plain English lettering, of the style and size known as great primer Roman condensed capitals. A brand or mark shall be used in all cases where the nature of the article will

permit and only where such branding or marking is impossible shall a label be used. Such label shall be in the form of a paper tag and shall be attached by wire to each article, where the nature of the article will permit, and shall be placed securely upon the box, crate or other covering in which such goods, wares or merchandise are packed, shipped or exposed for sale.

Such brand, mark or label shall be placed upon the most conspicuous part of the finished article and its box, crate or covering.

No convict-made goods, wares or merchandise shall be sold or exposed for sale without such brand, mark or label.

The requirement of branding of goods from other states was held unconstitutional in 1898 in *People v. Hawkins*, 157 N. Y. 1.

§ 194. Duties of commissioner of labor relative to violations; fines upon convictions.—The commissioner of labor shall enforce the provisions of this article. If he has reason to believe that any of such provisions are being violated, he shall advise the district attorney of the county wherein such alleged violation has occurred of such fact, giving the information in support of his conclusion. The district attorney shall, at once, institute the proper proceedings to compel compliance with this article and secure conviction for such violations.

Upon the conviction of a person or corporation for a violation of this article, one-half of the fine recovered shall be paid and certified by the district attorney to the commissioner of labor, who shall use such money in investigating and securing information in regard to violations of this chapter, and in paying the expenses of such conviction.

Compare Penal Law, § 620, p. 169, *post*.

§ 195. Article not to apply to goods manufactured for use of state or a municipal corporation.—Nothing in this article shall apply to or affect the manufacture in state prisons, reformatories and penitentiaries, and furnishing of articles for the use of the offices, departments and institutions of the state or any political division thereof, as provided by section one hundred fifty-eight, one hundred seventy to one hundred seventy-five, both inclusive, one hundred seventy-seven, one hundred seventy-eight, one hundred eighty-one, one hundred eighty-three, one hundred eighty-five, one hundred eighty-six, one hundred eighty-nine, and one hundred ninety-one of the prison law.

ARTICLE 14

Employer's Liability

[There should be read with this article §§ 11, 29, 53, of the Workmen's Compensation Law, pp. 190, 197, 199, post, and, in the case of railway employees, § 64 of the Railroad Law, p. 211, post. The Federal Employers' Liability Act is paramount and exclusive as concerns employment in interstate commerce: Burnett v. Erie R. R. Co., 159 App. Div. 712. Court decisions under the liability laws are very numerous, but a large proportion of these are of little general significance outside of the particular case in hand. Only a few of those which seem of leading importance since the amendment of 1910 are here referred to in notes.]

Section 200. Employer's liability for injuries.

201. Notice to be served.

202. Assumption of risks; contributory negligence, when a question of fact.

202-a. Trial; burden of proof.

203. Defense; insurance fund.

Section 204. Existing rights of action continued.

- 205. Consent by employer and employee to compensation plan.
- 206. Liability to pay compensation; notice of accident.
- 207. Amount of compensation; persons entitled; physical examination.
- 208. Settlement of disputes.
- 209. Preferential claim; not assignable or subject to attachment; attorney's fee.
- 210. Cancellation of consent.
- 211. Reports of compensation plan.
- 212. Reports by employer.

§ 200. Employer's liability for injuries.—When personal injury is caused to an employee who is himself in the exercise of due care and diligence at the time:

1. By reason of any defect in the condition of the ways, works, machinery, or plant, connected with or used in the business of the employer which arose from or had not been discovered or remedied owing to the negligence of the employer or of any person in the service of the employer and intrusted by him with the duty of seeing that the ways, works, machinery, or plant, were in proper condition. [*Subd. 1 am'd by L. 1910, ch. 352.*]

2. By reason of the negligence of any person in the service of the employer intrusted with any superintendence or by reason of the negligence of any person intrusted with authority to direct, control or command any employee in the performance of the duty of such employee. The employee, or in case the injury results in death, the executor or administrator of a deceased employee who has left him surviving a husband, wife or next of kin, shall have the same right of compensation and remedies against the employer as if the employee had not been an employee of nor in the service of the employer nor engaged in his work. The provisions of law relating to actions for causing death by negligence, so far as the same are consistent with this act, shall apply to an action brought by an executor or administrator of a deceased employee, suing under the provisions of this article. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer for the injuries to the employees of such contractor or subcontractor, caused by any defect in the condition of the ways, works, machinery, or plant, if they are the property of the employer or are furnished by him, and if such defect arose, or had not been discovered or remedied, through the negligence of the employer, or of some person intrusted by him with the duty of seeing that they were in proper condition. [*Subd. 2 am'd by L. 1910, ch. 352.*]

As to scope of word "plant" see *Lipstein v. Provident Loan Society*, 154 App. Div. 732; *Fresusk v. Pittsburg Contracting Co.*, 159 App. Div. 356; *Kens v. Bernheimer & Swarts Pilsener Brewing Co.*, 162 App. Div. 777; *Drury v. American Fruit Product Co.*, 163 App. Div. 509. As to the responsibility of the owner of a "plant" for the safety of the employee of a contractor see *Kens v. Bernheimer & Swarts Pilsener Brewing Co.*, 162 App. Div. 777.

§ 201. Notice to be served.—No action for recovery of compensation for injury or death under this article shall be maintained unless notice of the time, place and cause of the injury is given to the employer within one

hundred and twenty days and the action is commenced within one year after the occurrence of the accident causing the injury or death. The notice required by this section shall be in writing and signed by the person injured or by some one in his behalf, but if from physical or mental incapacity it is impossible for the person injured to give notice within the time provided in this section, he may give the same within ten days after such incapacity is removed. In case of his death without having given such notice, his executor or administrator may give such notice within sixty days after his appointment, but no notice under the provisions of this section shall be deemed to be invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of the injury if it be shown that there was no intention to mislead and that the party entitled to notice was not in fact misled thereby. If such notice does not apprise the employer of the time, place or cause of injury, he may, within eight days after service thereof, serve upon the sender a written demand for a further notice, which demand must specify the particular in which the first notice is claimed to be defective, and a failure by the employer to make such demand as herein provided shall be a waiver of all defects that the notice may contain. After service of such demand as herein provided, the sender of such notice may at any time within eight days thereafter serve an amended notice which shall supersede such first notice and have the same effect as an original notice hereunder. The notice required by this section shall be served on the employer, or if there is more than one employer, upon one of such employers, and may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice or demand may be served by post by letter addressed to the person on whom it is to be served, at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation, notice shall be served by delivering the same or by sending it by post addressed to the office or principal place of business of such corporation. [*As am'd by L. 1910, ch. 352.*]

The sufficiency and the mode of signing the notice are interpreted in *Rodzboriski v. American Sugar Refining Co.*, 210 N. Y. 262; waiver of the notice, in *Dalley v. Stoll*, 211 N. Y. 74.

§ 202. **Assumption of risks; contributory negligence, when a question of fact.**—An employee by entering upon or continuing in the service of the employer shall be presumed to have assented to the necessary risks of the occupation or employment and no others. The necessary risks of the occupation or employment shall, in all cases arising after this article takes effect, be considered as including those risks, and those only, inherent in the nature of the business which remain after the employer has exercised due care in providing for the safety of his employees, and has complied with the laws affecting or regulating such business or occupation for the greater safety of such employees. In an action brought to recover damages for personal injury or for death resulting therefrom received after this act takes effect, owing to any cause, including open and visible defects, for which the employer would be liable but for the hitherto available defense of assumption of risk by the employee, the fact that the employee continued in the service of the

employer in the same place and course of employment after the discovery by such employee, or after he had been informed of the danger of personal injury therefrom shall not be, as matter of fact or as matter of law, an assumption of the risk of injury therefrom, but an employee, or his legal representative, shall not be entitled under this article to any right of compensation or remedy against the employer in any case where such employee knew of the defect or negligence which caused the injury and failed, within a reasonable time, to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer, or who had intrusted to him some superintendence, unless it shall appear on the trial that such defect or negligence was known to such employer, or superior person, prior to such injuries to the employee; or unless such defect could have been discovered by such employer by reasonable and proper care, tests or inspection. [*As am'd by L. 1910, ch. 352.*]

§ 202-a. Trial; burden of proof.—On the trial of any action brought by an employee or his personal representative to recover damages for negligence arising out of and in the course of such employment, contributory negligence of the injured employee shall be a defense to be so pleaded and proved by the defendant. [*Added by L. 1910, ch. 352.*]

Contributory negligence may be predicated as matter of law: *Hogan v. N. Y. C. & H. R. R. Co.*, 208 N. Y. 445.

This section applies to cases arising under the Labor Law generally, and not merely to cases arising under article 14, known as the Employer's Liability Act: *Hubbell v. Pioneer Paper Co.*, 160 App. Div. 356.

§ 203. Defense; insurance fund.—An employer who shall have contributed to an insurance fund created and maintained for the mutual purpose of indemnifying an employee for personal injuries, for which compensation may be recovered under this article, or to any relief society or benefit fund created under the laws of this state, may prove in mitigation of damages recoverable by an employee under this article such proportion of the pecuniary benefit which has been received by such employee from such fund or society on account of such contribution of the employer, as the contribution of such employer to such fund or society bears to the whole contribution thereto.

Under the common law an agreement relieving the employer from liability is void: *Johnston v. Fargo*, as President of the American Express Company, 184 N. Y. 379 (1906), aff'g 98 App. Div. 436. But an employee may release an employer from liability in consideration of benefits from a relief fund: *Colaizzi v. Pennsylvania R. R. Co.*, 208 N. Y. 275 (1913), aff'g 143 App. Div. 638.

§ 204. Existing rights of action continued.—Every existing right of action for negligence or to recover damages for injuries resulting in death is continued and nothing in this article contained shall be construed as limiting any such right of action, nor shall the failure to give the notice provided for in section two hundred and one of this article be a bar to the maintenance of a suit upon any such existing right of action.

§ 205. Consent by employer and employee to compensation plan.—When and if any employer in this state and any of his employees shall consent to the compensation plan described in sections two hundred and six to two hundred and twelve, inclusive, of this article, hereinafter referred to as the plan, and shall signify their consent thereto in writing signed by each of them or their authorized agents, and acknowledged in the manner prescribed by law

for taking the acknowledgment of a conveyance of real property, and such writing is filed with the county clerk of the county in which it is signed by the employee, then so long as such consent has not expired or been canceled as hereinafter provided, such employee, or in case injury to him results in death, his executor or administrator, shall have no other right of action against the employer for personal injury or death of any kind, under any statute or at common law, save under the plan so consented to, except where personal injury to the employee is caused in whole or in part by the failure of the employer to obey a valid order made by the commissioner of labor or other public authority authorized to require the employer to safeguard his employees, or where such injury is caused by the serious or willful misconduct of the employer. In such excepted cases thus described, no right of action which the employee has at common law or by any other statute shall be affected or lost by his consent to the plan, if such employee, or in case of death his executor or administrator, commences such action before accepting any benefit under such plan or giving any notice of injury as provided in section two hundred and six hereof. The commencing of any legal action whatsoever at common law or by any statute against the employer on account of such injury, except under the plan, shall bar the employee, and in the event of his death his executors, administrators, dependents and other beneficiaries, from all benefit under the plan. This section and sections two hundred and six to two hundred and twelve, inclusive, of this article shall not apply to a railroad corporation, foreign or domestic, doing business in this state, or a receiver thereof, or to any person employed by such corporation or receiver. [Added by L. 1910, ch. 352.]

§ 206. *Liability to pay compensation; notice of accident.*—If personal injury by accident arising out of and in the course of the employment is caused to the employee, the employer shall, subject as hereinafter mentioned, be liable to pay compensation under the plan at the rates set out in section two hundred and seven of this article; provided that the employer shall not be liable in respect of any injury which does not disable the employee for a period of at least two weeks from earning full wages at the work at which he was employed, and that the employer shall not be liable in respect of any injury to the employee which is caused by the serious and willful misconduct of that employee. No proceedings for recovery under the plan provided hereby shall be maintained unless notice of the accident has been given to the employer as soon as practicable after the happening thereof and before the employee has voluntarily left the employment in which he was injured and during such disability, and unless claim for compensation with respect to the accident has been made within six months from the occurrence of the accident, or in the case of death of the employee, or in the event of his physical or mental incapacity within six months after such death or removal of such physical or mental incapacity, or in the event that weekly payments have been made under the plan, within six months after such payments have ceased; but no want of or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings under the plan unless the employer proves that he is prejudiced by said want, defect or inaccuracy. Notice of the accident shall apprise the employer of the claim for compensation under

this plan and shall state the name and address of the employee injured, the date and place of the accident and in simple language the cause thereof. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business. [Added by L. 1910, ch. 352.]

§ 207. Amount of compensation; persons entitled; physical examination.—The amount of compensation under the plan shall be: 1. In case death results from injury:

(a) If the employee leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of the employee at the rate at which he was being paid by the employer at the time of the accident, but not more in any event than three thousand dollars. Any weekly payments previously made under the plan shall be deducted in ascertaining such amount payable on death.

(b) If such widow or next of kin or any of them are in part only dependent upon his earnings, such sum not exceeding that provided in subdivision a as may be determined to be reasonable and proportionate to the injury to such dependents.

(c) If he leaves no widow, or next of kin so dependent in whole or in part, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars. Whatever sum may be determined to be payable under the plan, in case of death of the injured employee, shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the person to whom the expenses of medical attendance and burial are due.

2. Where total or partial incapacity for work at any gainful employment results to the employee from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during incapacity, subject as herein provided, not exceeding fifty per centum of his average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been employed less than a year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period.

In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident but shall amount to one-half of such difference. In no event shall any weekly payment payable under the plan exceed ten dollars per week or extend over more than eight years from the date of the accident. Any person entitled to receive weekly payments under the plan is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the employee, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the work-

man refuses so to submit or obstructs the same, his right to weekly payments shall be suspended until such examination shall have taken place, and no compensation shall be payable under the plan during such period. In case an injured employee shall be mentally incompetent at the time when any right or privilege accrues to him under the plan, a committee or guardian of the incompetent appointed pursuant to law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time herein provided for shall run so long as said incompetent employee has no committee or guardian. [Section 207 added by L. 1910, ch. 352.]

§ 208. Settlement of disputes.—Any question of law or fact arising in regard to the application of the plan in determining the compensation payable thereunder or otherwise shall be determined either by agreement or by arbitration as provided in the code of civil procedure, or by an action at law as herein provided. In case the employer shall be in default in any of his obligations to the employee under the plan, the injured employee or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under the plan in any court having jurisdiction thereof as on a written contract. Such action shall be conducted in the same manner as an action at law for the recovery of damages for breach of a written contract, and shall for all purposes, including the determination of jurisdiction, be deemed such an action. The judgment in such action, in favor of the plaintiff, shall be for a lump sum equal to the amount of the payments then due and prospectively due under the plan. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court by which such executor or administrator is appointed, in accordance with the terms of this article on petition of any party on such notice as such court may direct. [Added by L. 1910, ch. 352.]

§ 209. Preferential claim; not assignable or subject to attachment; attorney's fees.—Any person entitled to weekly payments under the plan against any employer shall have the same preferential claim therefor against the assets of the employer as now allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under the plan shall not be assignable or subject to attachment, levy or execution. No claim of an attorney for any contingent interest in any recovery under the plan for services in securing such recovery shall be an enforceable lien thereon, unless the amount of the same be approved in writing by a justice of the supreme court, or in case the same is tried in any court, before the justice presiding at such trial. [Added by L. 1910, ch. 352.]

§ 210. Cancellation of consent.—When a consent to the plan shall have been filed in the office of the county clerk as herein provided, it shall be binding upon both parties thereto as long as the relation of employer and employee exists between the parties, and expire at the end of such employ-

ment, but it may at any time be canceled on sixty days' notice in writing from either party to the other. Such notice of cancellation shall be effective only if served personally or sent by registered letter to the last known post-office address of the party to whom it is addressed, but no notice of cancellation shall be effective as to a claim for injury occurring previous thereto. [Added by L. 1910, ch. 352.]

§ 211. Reports of compensation plan.—Each employer who shall sign with any employee a consent to the plan shall, within thirty days thereafter, file with the commissioner of labor a statement thereof, signed by such employer, which shall show (a) the name of the employer and his post-office address, (b) the name of the employee and his last known post-office address, (c) the date of, and office where the original consent is filed, (d) the weekly wage of the employee at the time the consent is signed; unless such statement is duly filed, such consent of the employee shall not be a bar to any proceeding at law commenced by the employee against the employer. [Added by L. 1910, ch. 352.]

§ 212. Reports by employer.—Each employer of labor in this state who shall have entered into the plan with any employee shall, on or before the first day of January, nineteen hundred and eleven, and thereafter and at such times as may be required by the commissioner of labor, make a report to such commissioner of all amounts, if any, paid by him under such plan to injured employees, stating the name of such employees, and showing separately the amounts paid under agreement with the employees, and the amounts paid after proceedings at law, and the proceedings at law under the plan then pending. Such reports shall be verified by the employer or a duly authorized agent in the same manner as affidavits. [Added by L. 1910, ch. 352.]

ARTICLE 14-a

[Added by L. 1910, ch. 674]

Workmen's Compensation in Certain Dangerous Employments

[This article was held unconstitutional by the Court of Appeals in *Ives v. South Buffalo Ry. Co.*, 201 N. Y. 271 (1911). The article was repealed by L. 1913, ch. 816, § 180, and L. 1914, ch. 41, § 180.]

ARTICLE 1b

Employment of Children in Street Trades

Section 220. Prohibited employment of children in street trades.

221. Permit and badge for children engaged in street trades, how issued.

222. Contents of permit and badge.

223. Regulations concerning badge and permit.

224. Limit of hours.

225. Enforcement of article.

226. Violation of this article, how punished.

227. Punishment of parent, guardian or other person contributing to the delinquency of children.

§ 220. Prohibited employment of children in street trades.—No male child under twelve, and no girl under sixteen years of age, shall in any city of the first, second or third class sell or expose or offer for sale newspapers,

magazines or periodicals in any street or public place. [*As am'd by L. 1913, ch. 618.*]

Relative to employment of minors in mercantile establishments or as messengers or newsboys, see §§ 161-161-b, *ante*.

This section does not apply to boys employed by newspapers as carriers to deliver papers. Opinion of Attorney-General, July 7, 1913.

§ 221. Permit and badge for children engaged in street trades, how issued.—No male child under fourteen years of age shall sell or expose or offer for sale said articles unless a permit and badge as hereinafter provided shall have been issued to him by the district superintendent of the board of education of the city and school district where said child resides, or by such other officer thereof as may be officially designated by such board for that purpose, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case said child has no parent, guardian or custodian then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age of twelve years or upwards, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of normal development of a child of his age and physically fit for such employment, and that said principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Principals or chief executive officers of schools in which children under fourteen years are pupils shall keep complete lists of all children in their schools to whom a permit and badge as herein provided have been granted. [*As am'd by L. 1913, ch. 618.*]

§ 222. Contents of permit and badge.—Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and describe the color of hair and eyes, the height, weight and any distinguishing facial mark of such child, and shall further state that the papers required by the preceding section have been duly examined and filed; and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding to the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the presence of the officer issuing the same by the child in whose name it is issued. [*As am'd by L. 1913, ch. 618.*]

§ 223. Regulations concerning badge and permit.—The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city of the first, second or third class

as a newsboy, or shall sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police, or attendance officer. [*As am'd by L. 1913, ch. 618.*]

§ 224. Limit of hours.—No child to whom a permit and badge are issued as provided for in the preceding section shall sell or expose or offer for sale any newspapers, magazines or periodicals after eight o'clock in the evening, or before six o'clock in the morning. [*As am'd by L. 1913, ch. 618.*]

§ 225. Enforcement of article.—In cities of the first, second or third class, police officers, and the regular attendance officers appointed by the board of education, who are hereby vested with the powers of peace officers for the purpose, shall enforce the provisions of this article. [*As am'd by L. 1913, ch. 618.*]

§ 226. Violation of this article, how punished.—Any child who shall, in any city of the first, second or third class, sell or expose or offer for sale newspapers, magazines or periodicals in violation of the provisions of this article may be deemed and adjudged in need of the care and protection of the state, and if over seven years of age may be adjudged guilty of juvenile delinquency. A child violating the provisions of this act may be arrested and in the city of New York be brought before a children's court and in any other city be brought before a court or magistrate having jurisdiction to commit a child to an incorporated charitable reformatory or other institution and be dealt with according to law. If any such child is committed to an institution, it shall, when practicable, be committed to an institution governed by the same religious faith as the parents of such child. The permit and badge of any child who violates the provisions of this article may be revoked by the officer issuing the same, upon the recommendation of the principal or chief executive officer of the school which such child is attending, or upon the complaint of any police officer or attendance officer, and such child shall surrender the permit and badge so revoked upon the demand of any attendance officer or police officer charged with the duty of enforcing the provisions of this article. The refusal of any child to surrender such permit and badge, upon such demand, or the sale or offering for sale of newspapers, magazines or periodicals in any street or public place by any child after notice of the revocation of such permit and badge shall be deemed a violation of this article and shall subject the child to the penalties provided for in this section. [*As am'd by L. 1913, ch. 618.*]

§ 227. Punishment of parent, guardian or other person for contributing to the delinquency of children.—The parent, guardian or other person having the custody of a child, who omits to exercise reasonable diligence to prevent such child from violating the provisions of this act, shall be guilty of a misdemeanor and shall be dealt with as provided by section four hundred and ninety-four of the penal law. In any such proceedings against any such parent, guardian or other person having custody of such child, proof of the presence of such child in the public streets engaged in the sale or exposure or offering for sale of newspapers, magazines or periodicals in violation of the provisions of this article, shall be deemed prima facie proof of the lack of reasonable diligence in the control of such child by such parent, guardian or custodian, to prevent such offense by such child. [*Added by L. 1913, ch. 618.*]

ARTICLE 16

Laws Repealed; When to Take Effect

Section 240. Laws repealed.

241. When to take effect.

§ 240. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 241. When to take effect.—This chapter shall take effect immediately.*

SCHEDULE OF LAWS REPEALED

Laws of	Chapter	Section
1833.....	87.....	All
1853.....	041.....	All
1867.....	856.....	All
1867.....	909.....	All
1868.....	717.....	2, part suspending operation of L. 1867, Ch. 909, § 10, last two sentences
1869.....	822.....	2, part amending L. 1867, Ch. 909
1870.....	385.....	All
1871.....	934.....	3
1874.....	614.....	All
1875.....	472.....	All
1881.....	298.....	All
1883.....	356.....	All
1885.....	314.....	All
1885.....	376.....	All
1886.....	151.....	All
1886.....	205.....	All
1886.....	409.....	All, except § 21, as added by L. 1887, Ch. 462, § 4
1886.....	410.....	All
1887.....	63.....	All
1887.....	323.....	All
1887.....	462.....	All
1887.....	529.....	All
1888.....	437.....	All
1889.....	380.....	All
1889.....	381.....	All
1889.....	385.....	All
1889.....	560.....	All
1890.....	218.....	All
1890.....	388.....	All
1890.....	394.....	All
1890.....	398.....	All
1891.....	214.....	All
1892.....	517.....	All

* February 17, 1909.

126 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Laws of	Chapter	Section
1892.....	667.....	All
1892.....	673.....	All
1892.....	711.....	All
1893.....	173.....	All
1893.....	219.....	All
1893.....	339.....	All
1893.....	691.....	All
1893.....	715.....	All
1893.....	717.....	All
1894.....	277.....	All
1894.....	373.....	All
1894.....	622.....	All
1894.....	698.....	All
1894.....	699.....	All
1895.....	324.....	All
1895.....	413.....	All
1895.....	518.....	All
1895.....	670.....	All
1895.....	765.....	All
1895.....	791.....	All
1895.....	899.....	All
1896.....	271.....	All
1896.....	384.....	All
1896.....	672.....	All
1896.....	789.....	All
1896.....	931.....	1-4, 6, 7
1896.....	936.....	All
1896.....	982.....	All
1896.....	991.....	All
1897.....	148.....	All
1897.....	415.....	All
1899.....	191.....	All
1899.....	192.....	All
1899.....	375.....	All
1899.....	558.....	All
1899.....	567.....	All
1900.....	298.....	All
1900.....	533.....	All
1901.....	9.....	All
1901.....	306.....	All
1901.....	475.....	All
1901.....	477.....	All
1901.....	478.....	All
1902.....	88.....	All
1902.....	454.....	All
1902.....	600.....	All
1903.....	151.....	All

Laws of	Chapter	Section
1903.....	184.....	All
1903.....	255.....	All
1903.....	561.....	All
1904.....	291.....	All
1904.....	523.....	All
1904.....	550.....	All
1905.....	493.....	All
1905.....	518.....	All
1905.....	519.....	All
1905.....	520.....	All
1906.....	129.....	All
1906.....	158.....	All
1906.....	178.....	All
1906.....	216.....	All
1906.....	275.....	All
1906.....	316.....	All
1906.....	366.....	All
1906.....	375.....	All
1906.....	401.....	All
1906.....	490.....	All
1906.....	506.....	All
1907.....	83.....	All
1907.....	243.....	All
1907.....	286.....	All
1907.....	291.....	All
1907.....	399.....	All
1907.....	418.....	All
1907.....	485.....	All
1907.....	490.....	All
1907.....	505.....	All
1907.....	507.....	All
1907.....	588.....	All
1907.....	627.....	All
1908.....	89.....	All
1908.....	174.....	All
1908.....	426.....	All
1908.....	442.....	All
1908.....	443.....	All
1908.....	520.....	All

INDUSTRIAL CODE

[Rules and Regulations prescribed by the State Industrial Board; adopted and effective under Labor Law, §§ 51, 52, and Penal Law, § 1275]

EMPLOYMENT OF WOMEN IN CANNERIES

[Supplementary to Labor Law, § 78, subd. 3; originally adopted and effective, June 27, 1913; readopted with verbal changes, June 19, 1914]

Rule 1.—Pursuant to subdivision 3, section 78 of the Labor Law, and upon application to be made by the employer to the Commissioner of Labor, women eighteen years of age and upwards may be employed or permitted to work in canning or preserving perishable products in fruit and canning establishments between the twenty-fifth day of June and the fifth day of August, nineteen fourteen, in excess of ten hours in any one day and sixty hours in any one week, but not in excess of twelve hours in any one day nor sixty-six hours in any one week nor six days in any one week, upon compliance with the following regulations:

A woman may be so employed

1. At any process or part of the work which does not require continuous standing while at work, except that she shall not be so employed in the processes of labeling or packing cans;

2. Provided that every floor on which such woman is employed be drained free of liquids; but whenever any such floor cannot be kept entirely free from liquids, slat platforms shall also be furnished upon which such woman may rest her feet while at work;

3. Permits granting exemption under these rules and regulations shall be revocable by the Commissioner of Labor for violation of any of the above regulations.

ENCLOSURE OF FACTORY STAIRWAYS

[Supplementary to Labor Law, §§ 79-a to 79-f; adopted August 28, 1913; effective October 1, 1913]

Rule 2.—In all factory buildings less than five stories in height, in which there are more than twenty-five persons employed above the ground floor, or in which, regardless of the number of persons employed, articles, goods, wares, merchandise or products of combustible material are stored, packed, manufactured, or in the process of manufacture, all interior stairways, serving as required means of exit, and the landings, platforms and passageways connected therewith, shall be enclosed on all sides by partitions of fire-resisting material extending continuously from the basement.

Where the stairway extends to the top floor of the building such partitions shall extend to three feet above the roof. All openings in such partitions shall be provided with self-closing doors constructed of fire resisting material, except where such openings are in the exterior wall of the building. The bottom of the enclosure shall be of fireproof material at least four inches thick, unless the fire-resisting partitions extend to the cellar bottom.

Such enclosure of stairways shall not be required in factory buildings in which there is an exterior enclosed fireproof stairway or a horizontal exit

serving as a required means of exit, as defined in section 79-f, subdivisions 8 and 9 of the Labor Law.

Where approved automatic sprinklers are installed throughout such buildings, such enclosure of stairways shall not be required unless more than eighty persons are employed above the ground floor.

STORAGE OF COMBUSTIBLE MATERIAL ABOUT FACTORY STAIRWAYS

[Supplementary to Labor Law, § 79-a to 79-f; adopted August 28, 1913; effective October 1, 1913]

Rule 3.—In all factory buildings no articles or wares of a combustible nature shall be kept or stored inside the limits of any stairway enclosure or unenclosed stairway, or on the landings, platforms or passageways connected therewith, nor shall such articles or wares be kept or stored under any stairway unless such stairway and any partitions or doors thereunder are constructed of or covered with incombustible material.

SANITATION OF CANNERY LABOR CAMPS

[Supplementary to Labor Law, § 98; effective June 1, 1914; for general sanitation of labor camps see Sanitary Code, pp. 133-135, post]

CONSTRUCTION

ROOF, WALLS AND FLOORS

Rule 200.—The roof and the walls of every dwelling, shack, tenement, barracks or living quarters of any kind or description must be so constructed as to be watertight.

Rule 201.—In new structures, the floor of every room used for sleeping purposes must be built of wood, asphalt or concrete with smooth finish of non-absorbent cement; if built of wood it must be raised at least one foot from the ground and the boards used therefor must be planed, tongued and grooved and at least seven-eighths ($\frac{7}{8}$) inch in thickness; if built of asphalt or concrete, it must be laid on a solid foundation other than earth, and must be at least two (2) inches in thickness. All such work must be executed in a thorough workmanlike manner.

Rule 202.—In existing structures the floor, if built of wood, must be raised above the ground a sufficient distance to allow free circulation of air beneath it.

Rule 203.—The floor of all such living quarters must be kept in good repair. If any floor is broken, or has such cracks or knot-holes that it cannot be kept in a dry and sanitary condition, it must be repaired or replaced by a new floor.

INTERIOR PARTITIONS

Rule 204.—In every existing structure the interior partitions must be at least ten (10) feet in height or must extend to the ceiling or roof. In every structure hereafter erected, every such interior partition must extend to the ceiling or roof. Every interior partition must be solid and without open cracks or knot-holes.

AIR SPACE AND WINDOWS

Rule 205.—In every room used for sleeping purposes there must be provided not less than four hundred (400) cubic feet of air space for each person

except that not less than two hundred (200) cubic feet may be provided for each child under fourteen (14) years of age.

Rule 206.—All living quarters other than tents must be built with windows. Every room must have at least one window opening directly to the outer air. Every window must be set with glass and so constructed that it can be easily opened. Every window-opening must have an area of at least four (4) square feet and be at least one (1) foot high. Every window-opening must be protected by mesh, wire netting or other screening to prevent the entrance of any person, but not to interfere with the free circulation of air.

NOTE: This rule is to prevent trespass while encouraging the opening of windows for ventilation.

Rule 207.—In every existing room used for sleeping purposes having not more than one window a transom opening not less than two (2) feet by six (6) inches must be cut to the outer air. Such transom opening must be kept open to admit air but may be covered with wire netting or other screening.

Rule 208.—In every structure hereafter erected, unless ventilation through the roof is provided, there must be a window or door-opening in at least two walls of every room, one of which may open upon a hall or passageway opening to the outer air.

KITCHEN AND DINING-ROOM

Rule 209.—There must be maintained in connection with all living quarters kitchen and dining-room accommodation under shelter, which shall have seats for at least 50 per cent of all persons dwelling in such living quarters, who are not otherwise provided with such accommodations under shelter separate from their sleeping rooms.

BEDS

Rule 210.—Beds, cots or bunks must be provided in every room used for sleeping purposes, in sufficient numbers for the occupants of the room. Every such bed, cot or bunk must be raised at least twelve (12) inches from the floor. No bed or bunk may be placed one above the other.

Rule 211.—No bed, cot or bunk may be placed at any time nearer than two (2) feet from the side of any other bed, cot or bunk in the same room.

PRIVIES AND WATER-CLOSETS

Rule 212.—Separate privies or water-closets must be provided for each sex, and at the entrance clearly marked "Men" or "Women," in English and the principal native language of the persons living in the camp. No person shall be allowed to use or frequent a privy or water-closet assigned to the opposite sex.

Rule 213.—No privy may be located less than twenty-five (25) feet distant from any living quarters, and the entrance to every privy must be not less than twenty (20) feet distant from the entrance to a privy assigned to the opposite sex. One privy or water-closet which is readily accessible must be supplied for every twenty (20) persons of each sex occupying the living quarters. For more than one hundred (100) persons, one privy or water-closet may be supplied for every twenty-five (25) persons.

Rule 214.—The entrance to every privy or water-closet compartment must be screened by a vestibule or by a stationary screen at least two (2) feet

wider than the entrance door, extending to a height of at least six and one-half ($6\frac{1}{2}$) feet.

Rule 215.—Every privy vault must be watertight and fly-proof and the walls of every privy vault hereafter built must extend not less than twelve (12) inches above the surface of the surrounding ground.

Rule 216.—Every privy must be ventilated by an unobstructed opening to the outer air, other than the door, which has an area of at least one hundred and forty-four (144) square inches. Every privy must be provided with a door. Every window and ventilating opening of a privy must be protected by metal screens which will prevent the entrance of flies, and every door must be provided with a self-closing device to keep it closed.

WATER SUPPLY

Rule 217.—Water must be supplied for drinking and washing purposes in every camp. It must be obtained from a source and in quantities satisfactory to the Commissioner of Labor. Every employer must furnish such water at the living quarters provided for his employees.

Rule 218.—Where there is no stream or lake accessible for bathing, and no baths are provided for the use of the camp, shacks or sheds, separate for each sex, removed from each other and at all times accessible must be provided for bathing purposes.

Rule 219.—Tubs and water for laundry purposes must be provided in or adjacent to all living quarters.

DRAINAGE

Rule 220.—The premises and surrounding ground of all living quarters and areas or passageways connected therewith must be kept thoroughly drained so that no stagnant water can collect or remain thereon.

Rule 221.—Readily accessible slop sinks must be provided to carry off all liquid waste. The pouring of such waste upon the ground near the living quarters is prohibited. All waste must be disposed of in such a way as not to contaminate the water supply of the camp, and in accordance with any rules of the State Department of Health and regulations of the Public Health Council relating thereto.

MAINTENANCE

HOUSING

Rule 222.—No room located more than one floor above the ground floor in any house of frame construction may be used for sleeping quarters without the written consent of the Commissioner of Labor.

Rule 223.—At least two (2) rooms must be provided for every family composed of husband and wife and one or more children above the age of ten (10) years.

Rule 224.—Sleeping accommodations must be provided in rooms which shall be separate for each sex for all males and females other than those who are housed together with their own immediate families.

BEDS AND BEDDING

Rule 225.—At the beginning of every season all living quarters and all beds, cots or bunks, mattresses, pillows and covers must be entirely clean

and free from all vermin. The Commissioner of Labor may at any time thereafter order the immediate cleansing and disinfection of such premises and articles, or destruction of such articles.

REFUSE AND GARBAGE RECEPTACLES

Rule 226.—Metal, sheet-iron or sheet-iron lined receptacles, or other receptacles of solid construction, with covers so constructed and arranged as to prevent the entrance of flies and other insects, must be placed adjacent and convenient to all living quarters. All refuse and garbage must be placed therein, and at least every other day or whenever the receptacle is full, must be destroyed by fire or removed to a safe distance from any building or dwelling and so deposited as not to create a nuisance.

PRIVIES

Rule 227.—Every privy vault must be emptied at least once a month, and at more frequent intervals if necessary. In no case must it be allowed to overflow. Removable metal receptacles or cans may be used instead of privy vaults if they are watertight and emptied whenever necessary to prevent overflowing. Dry sand, fine dry earth, lime or sawdust must at all times be provided in a receptacle in every privy and used at frequent intervals to deodorize the contents of the vault.

Rule 228.—Every privy must be cleaned by the thorough removal of all excreta to a safe distance from any building or dwelling, and such excreta must be so deposited and so disposed of on or beneath the surface of the ground as not to create a nuisance or permit the collection of flies or other insects.

CLEANLINESS

Rule 229.—Every dwelling, shack, tenement, barracks or living quarters of any kind or description and every part thereof and all the premises, slop sinks and privies connected therewith must at all times be kept in a clean and sanitary condition and free from dirt, filth, garbage and rubbish.

CARETAKER

Rule 230.—In every camp composed of ten (10) or more persons there must be at least one (1) employee whose specific duty it shall be to enforce the rules as to cleanliness and the removal of dirt, filth, garbage, rubbish and excreta.

DUTIES OF EMPLOYER

Rule 231.—Every employer operating a factory and furnishing to the employees thereof any living quarters, shall be responsible for the enforcement of every rule herein contained.

DUTIES OF EMPLOYEES

Rule 232.—Every person living in any living quarters to which these rules apply shall also be responsible for the carrying out of all provisions which immediately concern or affect his conduct.

With the foregoing provisions of the Industrial Code applying to cannery labor camps should be read also the provisions of Chapter V of the Sanitary Code, established by the State Public Health Council for labor camps in general, which are as follows:

LABOR CAMPS

Regulation 1. Pollution of waters prohibited. All persons living in the open or in camps, tents, or other temporary shelters shall exercise every proper and reasonable precaution to dispose of their wastes so that springs, lakes, reservoirs, streams and other watercourses shall not be polluted.

Regulation 2. Notice of labor or construction camp to be occupied by five or more persons to be given health officer. Every railroad or other corporation, contractor, lumberman or other person who shall establish, construct or maintain any labor or construction camp to be occupied by five or more persons, and the person in charge of any temporary living quarters on wheels or otherwise that shall be provided for five or more workmen, shall at once notify the health officer of the town or village in which the camp or quarters are to be located, by telephone, telegraph or letter, of the presence and location of such quarters or camp.

Regulation 3. Health officer to inspect and pass on location and sanitary conditions of camps. It shall be the duty of each health officer when notified of the establishment of any camp with temporary buildings, on wheels or otherwise, in his jurisdiction promptly to inspect and determine the propriety of the location of the camp and of its sanitary conditions. If the location or manner of operation of the camp be found by him to be detrimental to the public health he shall cause the camp to be removed or the manner of its operation to be corrected.

Regulation 4. Permit required for labor or construction camp to be occupied by more than ten persons for more than six days. No railroad or other corporation, contractor, lumberman or other person shall establish, construct or maintain any labor or construction camp to be occupied by ten or more persons for a period of more than six days without a permit from the local health officer.

Whenever any such camp shall be vacated, the person in charge thereof shall forthwith notify the local health officer and surrender to him the permit therefor.

Regulation 5. Application required for permit. Application for such permit shall be made in writing to the local health officer.

The application shall state the exact situation of the proposed camp, the type of camp to be established, the approximate number of persons to be maintained, the probable duration of stay, the proposed source of water supply for the camp, and the proposed method of sewage and garbage disposal.

Regulation 6. Conditions of issuance of permit; may be revoked. If the local health officer is satisfied after inspection that the proposed camp will not be a source of danger to the health of others or to its inmates, he shall issue the necessary permit in writing in a form to be prescribed by the state commissioner of health.

In case the local health officer declines to issue the permit an appeal may be taken to the state commissioner of health, who may grant a permit.

Any such permit may be revoked for cause by the local health officer or by the state commissioner of health, after a hearing.

Regulation 7. Health officer to be notified of the name of the person responsible for sanitary condition of camp. It shall be the duty of the owner, manager or foreman of a labor or construction camp occupied by twenty or more persons to detail one person who shall be responsible for the sanitary condition of the camp, and to notify the local health officer of the name of such person.

Regulation 8. Copy of this chapter to be posted. There shall be furnished by the health officer and conspicuously posted in every camp a copy of this present chapter of the sanitary code or of such parts thereof as may be considered necessary by the state commissioner of health.

Regulation 9. No building, tent or car in any camp to be nearer than fifty feet of water's edge of public water supply. In every camp or temporary quarters the nearest part of any building, tent, car or shed shall be at least fifty feet in a horizontal direction from the water's edge of any stream, lake or reservoir, except in the case of the Hudson river below the city of Albany, the waters of which are used for a public water supply.

Regulation 10. Suitable privy or other toilet facilities to be provided and used. For every camp there shall be provided convenient and suitable privy or other toilet facilities approved by the local health officer, which the occupants of the camp shall be required to use instead of polluting the ground.

Regulation 11. Construction of privies more than two hundred feet from the water's edge. If such privy be more than two hundred feet from the water's edge of any spring, stream, lake or reservoir forming part of a public or private water supply, it shall consist of a pit at least two feet deep, with suitable shelter over the same. No such pit shall be filled with excreta to nearer than one foot from the surface of the ground and the excreta in the pit shall always be covered with earth or ashes. If the camp is to be occupied for more than six days between May 1 and November 1 the shelter and pit shall be enclosed in fly netting.

Regulation 12. Construction and care of privies located between fifty and two hundred feet from the water's edge. If such privy be between fifty and two hundred feet from the waters of a spring, stream, lake or reservoir forming part of a public or private water supply, there shall be no pit, but the excreta shall be received in a water-tight tub or bucket and periodically, as often as may be found necessary, shall be taken away and disposed of. Such privy shall be properly screened against flies and kept in a clean and sanitary condition; the pails or buckets shall not be allowed to fill so that they overflow or spill in carrying, and the construction of the privy shall be such that the convenient removal and replacement of the tubs or buckets is facilitated.

Regulation 13. Disposal of wastes from privies. The pails or buckets used in privies located between fifty and two hundred feet from the water's edge, as referred to in Regulation 12, shall when not more than three-quarters filled be removed from the privy and carried at least two hundred feet from the water's edge and the contents there either burned or buried in a trench at least two feet deep so that when buried there shall be at least one foot of earth cover. The tubs or buckets immediately after being emptied shall be rinsed out with a suitable disinfectant as particularly prescribed for such purposes by the special rules and regulations of the state department of health and the rinsing fluid shall also be emptied into the trench.

Regulation 14. Garbage to be disposed of in suitable manner. All garbage, kitchen wastes and other rubbish in camps shall be deposited in suitable covered receptacles which shall be emptied daily or oftener if necessary, and the contents burned, buried or otherwise disposed of in such a way as not to be or become offensive or insanitary.

Regulation 15. Water rules to be observed. Whenever a camp is established on the banks of a spring, lake, reservoir, stream or other watercourse which is a source of water supply protected by water rules formulated by the state commissioner of health, no bathing or washing by the occupants of said camp shall be allowed in said springs, lakes, reservoirs, streams or other watercourses, and all said water rules shall be strictly observed. There shall be furnished by the local health officer and conspicuously posted in such camp a copy of said rules or parts thereof as may be considered necessary by the state commissioner of health.

Regulation 16. Location and drainage of stables regulated. No stable or other shelter for animals shall be maintained within one hundred feet of any living quarters in a camp, nor within one hundred and fifty feet of any kitchen or messroom therein. No drainage from such stable or shelter shall be permitted to empty directly into any spring, lake, reservoir, stream or other watercourse forming part of a public or private water supply.

Regulation 17. Camps to be kept and left in clean and sanitary condition. All tents, cars, and buildings in, and the grounds surrounding, camps shall at all times be kept and when definitely vacated be left in a clean and sanitary condition.

Regulation 18. Person in charge of camp to report cases of disease presumably communicable. It shall be the duty of the person in charge of any labor or other camp to enforce Regulation 6 of Chapter II of the sanitary code, reading as follows:

"It shall be the duty of every visiting nurse and public health nurse and of the person in charge of any labor or other camp, having knowledge of any person affected with any disease presumably communicable, who by reason of the danger to others seems to require the attention of the public health authorities, to report at once to the local health officer, within whose jurisdiction such case occurs, all facts relating to the illness and physical condition of such affected person."

Regulation 19. Isolation of cases of communicable disease; cases not to be removed without permission of health officer. Whenever a case of disease presumably

communicable shall occur in any labor or construction camp it shall be the duty of the person in charge of the camp immediately to isolate the case. Such isolation shall be maintained in a manner approved by the local health officer. The person in charge of the camp shall not allow the case to leave or be removed from such camp without the permission of the local health officer.

Regulation 20. Duty to enforce regulations on person in charge. It shall be the duty of the superintendent, foreman or other person in charge of a camp to see that all regulations of this chapter are faithfully observed.

Regulation 21. Supplementary rules and regulations. Labor and construction camps shall be subject to such special and supplementary rules and regulations, not inconsistent herewith, as may from time to time be made by the state commissioner of health.

Regulation 22. Date of taking effect and territory where effective designated. Every regulation in this chapter shall take effect throughout the state of New York except in cities on the first day of January, 1915.

SANITARY CODE FOR BAKERIES AND CONFECTIONERIES

[Effective June 15, 1914; not applicable to cities of the 1st class; the bakery code governs when in conflict with general sanitary rules for factories]

CONSTRUCTION AND MAINTENANCE

[Supplementary to Labor Law, §§ 84, 84-a, 111, 112]

Rule 300.—In existing bakeries or confectioneries side walls shall either be of plain brick painted a light color with a good oil or enamel paint, or glazed brick; or smoothly plastered, tiled or wainscoted. In new installations side walls shall be constructed either of (a) brick which, unless glazed, shall be painted a light color, with a good oil or enamel paint; (b) tile; (c) hard plaster (either cement or gypsum plaster) laid over brick or metal or metal lath and painted a light color with a good oil or enamel paint, or (d) other waterproof material approved by the Industrial Board. Walls and ceilings shall be kept free from holes, cracks or ragged edges. Ceilings shall either be (a) plastered; (b) ceiled with metal or wood; (c) of open joists, if exposed surfaces are planed and double floors used immediately above, which shall be of tongued and grooved material if of wood; or (d) smooth concrete. No new wainscoting shall be installed in an existing bakery or confectionery; the Commissioner of Labor shall have power to order the removal of existing wainscoting when in his opinion the same leads to unsanitary conditions and may order the substitution of materials specified above for new installations.

Rule 301.—All walls and ceilings shall be kept well painted with oil or enamel paint or lime washed or calcimined, and all interior or exposed wood-work shall be kept well painted with oil or enamel paint or kept well varnished. All paint or varnish shall be of a light color.

Rule 302.—The angles where floor and walls and ceiling join shall be so maintained as to be rat proof.

Rule 303.—Floors in workrooms shall be cleaned daily and any adhering materials scraped off with scrapers provided for that purpose alone; such floors shall be scrubbed at least once a week.

Rule 304.—Interior surfaces shall be scrubbed as often as is necessary to keep them absolutely clean.

NOTE.—Except in rooms devoted to the manufacture of ice cream, floors of tongued and grooved maple are recommended.

VENTILATION

[*Supplementary to Labor Law, § 86. See also below, rule 316*]

Rule 305.—Wherever bakery or confectionery products are fried in fat or candy is boiled over an open stove, a ventilating hood and pipe shall be provided which shall effectively take off the smoke, gases and vapors; the pipe shall not be less than four (4) inches in diameter and shall be attached at the extreme top of hood; the hood shall be cone-shaped, shall not be raised more than six and one-half (6½) feet from the floor and its width and breadth shall at least equal the width and breadth of the stove to be ventilated.

Rule 306.—Smoke dampers in ovens shall at all times be maintained in a serviceable condition.

Rule 307.—Oven ashpits shall be provided either (a) with flue and damper, or (b) with ventilating hood and pipe not less than four (4) inches in diameter leading either to the outer air and extending to a point at least twenty (20) feet higher than the top of hood, or leading to the flue of the building.

Rule 308.—Oven doors shall be provided with a ventilating hood of at least the same width as the doors and with pipe not less than four (4) inches in diameter, leading either to the flue of the building or to the outer air and extending to a point at least twenty (20) feet higher than the top of the hood, except (a) when indirect heating ovens are used; (b) when the steam flue of the oven is eight (8) inches or more in depth; or (c) when there are over the oven either louvered openings or pivot swings in skylights of four (4) square feet area per oven or satisfactory mechanical means of ventilation.

Rule 309.—Whenever a hood is used in complying with the requirements of paragraphs 3 and 4 of this rule, it shall be constructed of brick, cement or metal, shall extend not more than one (1) foot from the oven wall and shall be cone-shaped, with pipe attached at extreme top of hood.

SINKS

[*Supplementary to Labor Law, § 88-a*]

Rule 310.—All sinks shall be made of non-absorbent material. Sinks shall be on iron supports, with metal flashing tightly fitted over the rear edges and extending at least one (1) foot in height over the entire length of the sink, unless the sink itself so extends. Sinks shall be installed anew whenever cracked or broken. In new installations iron sinks, unless galvanized or enameled, will not be permitted and, instead of flashing, shall have backs that extend as above.

Rule 311.—No sink shall be wholly or partially enclosed with woodwork.

Rule 312.—There shall be at least one sink not less than thirty (30) inches long, twenty (20) inches wide and six (6) inches deep.

Rule 313.—All sinks shall be provided with hot as well as with cold running water.

Rule 314.—All sinks shall be kept in a clean sanitary condition at all times; no waste matter shall be allowed to clog up the strainers.

Rule 315.—Washtubs shall be made of, or entirely covered by non-absorbent material. In the latter case the joints shall be soldered.

WINDOWS

[Supplementary to Labor Law, § 86]

Rule 316.—All windows shall be so arranged and maintained that they can be opened easily for purposes of ventilation.

REFUSE RECEPTACLES

[Supplementary to Labor Law, § 113]

Rule 317.—There shall be provided metal receptacles with tight-fitting covers, for ashes, refuse and garbage. The contents of refuse and garbage receptacles shall be removed at least once a day.

Rule 318.—No coal or waste matter shall be deposited or kept on the floor.

SLEEPING ROOMS

[Supplementary to Labor Law, § 113]

Rule 319.—No sleeping room shall open into any workroom or any room where the raw material or finished product is stored or sold.

Rule 320.—Sleeping rooms shall be kept in a thoroughly sanitary condition at all times and be dry and well ventilated.

SCREENS

[Supplementary to Labor Law, § 113]

Rule 321.—Doors, windows or other openings shall, during the period between May first and November first, be provided with wire screens of not coarser than 14 mesh wire gauge. Screen doors shall be self-closing.

DRESSING ROOMS

[Supplementary to Labor Law, § 83]

Rule 322.—A properly lighted and ventilated room shall be provided as a dressing room. If located in workroom, store or salesroom it shall be enclosed on all sides by a wall or partition extending from floor to ceiling. It need not be in the bakery or confectionery, provided it is located in the same building. It shall contain at least six (6) square feet of floor space for every person employed in any one shift exclusive of office force up to ten, and two and one-half (2½) square feet for every additional person.

Rule 323.—Workmen shall not change their clothes in any other place than the foregoing while in the factory building.

Rule 324.—All lockers shall be constructed so as to permit thorough ventilation. None but metal lockers shall be installed after June 15, 1914. A hook shall be provided outside the locker for the work clothes of each person employed.

WASHING FACILITIES

[Supplementary to Labor Law, § 83, subd. 2]

Rule 325.—For every ten (10) employees or fraction thereof employed in any one shift, at least one (1) sink or stationary wash basin of non-absorbent

material shall be provided, fitted with two spigots conveying hot and cold water. Troughs of non-absorbent material may take the place of sinks or wash basin, in which case there shall be at least two (2) feet of trough length and two (2) spigots for every ten (10) employees. These washing facilities need not be in a separate room, but shall be in the bakery or confectionery.

Rule 326.—There shall be at all times provided by the employer a sufficient supply of toilet soap (preferably liquid) near each sink used for washing purposes; there shall also be provided by the employer nail brushes for the workmen, and one clean towel daily for each employee. Paper towels may be used if supplied in unlimited quantity.

PERSONAL CLEANLINESS

[Supplementary to Labor Law, § 113]

Rule 327.—In case overalls or aprons are worn, bibs shall be attached. In no case shall bakery or confectionery products come in contact with the shirts or other garments that lie next to the bare skin of the workman.

Rule 328.—Workmen shall wash their hands with soap and water on starting work, after meals, and each time after they have used the water-closet or urinal; advisable also when changing from one kind of work to another.

SIGNS

[Supplementary to Labor Law, §§ 84, 118, and to Penal Law, § 1275]

Rule 329.—In addition to other signs required to be posted by the Labor Law there shall be posted in every bakery or confectionery signs in English and foreign languages, prepared and furnished by the Department of Labor. These shall state (a) the provision regarding washing, as per Rule 328 of this code; (b) the prohibition of the use of tobacco in any form, as per the provision of section 113 of the Labor Law; (c) section 84 of the Labor Law regarding spitting; (d) the penalty for a violation of these rules.

OPERATING METHODS

[Supplementary to Labor Law, § 113]

Rule 330.—Dough-troughs, proof or steam boxes and pan or bread racks shall be mounted on casters or rollers.

Rule 331.—Wooden bread boxes, roll and bread boards, work tables and dough-troughs shall be smoothly finished, free from holes, cracks or crevices.

Rule 332.—All machines and utensils and all proof or steam boxes shall be thoroughly cleaned after each day's work.

Rule 333.—All tools, apparatus or utensils used in making or in the direct handling of ice cream, including freezers, vats, mixing cans or tanks and all piping shall be thoroughly cleaned after use and rinsed with boiling water or sterilized with live steam.

Rule 334.—Open sifting of ashes is prohibited. Ashes may be sifted in enclosed sifters in other than work hours.

Rule 335.—Ashpits shall be provided with solid metal doors which, except in indirectly heated ovens, must be kept closed when grates are dumped. These

doors may be provided with holes of a size not larger than to admit poker and watering hose.

NOTE.— It is recommended that provision be made for dumping drop — or swivel — grates from the outside by means of cable or chain. Where this is impracticable, double-swinging doors with semi-circular holes on their inner edge are recommended, to be closed after poker has engaged the grate.

Rule 336.— Wetting of ashes shall only be done in ashpits and when door is closed.

Rule 337.— Swab-tubs shall be of metal and shall be kept empty when not in use. They shall be cleaned and supplied with fresh water after each cleaning of oven. Sanitary swabs shall be provided.

Rule 338.— Ice-boxes shall be kept thoroughly clean and shall be properly drained.

Rule 339.— The use of live coal in proof or steam boxes is prohibited.

CARE OF RAW MATERIAL AND FINISHED PRODUCT

[Supplementary to Labor Law, § 113]

Rule 340.— No bakery or confectionery or place where the raw material or finished product of same is kept or stored shall be under or connect either directly or indirectly with a stable or other building where horses, fowl or other animals are housed or kept. No raw material shall be kept or stored in a stable or such building.

Rule 341.— All finished or partly finished product, except when in baskets or boxes ready for shipment, and all raw materials in opened bags or unsealed containers other than barrels, shall be stored or kept on platforms, shelves or racks not less than fifteen (15) inches from the floor and two (2) inches from any side wall; if the platforms, shelves or racks be on casters or rollers they shall be raised at least four (4) inches from the floor and shall be kept at least two (2) inches from any side wall.

Rule 342.— Unless barrels are tapped, they shall be provided with metal covers having rims extending downward over the edges.

Rule 343.— All baskets, boxes and other containers, that are used for carrying, storing or delivering the finished product, shall be kept thoroughly clean at all times.

Rule 344.— All hand-carts, wagons, automobiles or other vehicles used for the delivery of the finished product shall be kept thoroughly clean at all times. They shall be so arranged that contents are thoroughly protected from dust and flies.

LABELS AND PASTERS

[Supplementary to Labor Law, § 113]

Rule 345.— No label or paster shall be stuck on bread or other bakery or confectionery goods with gum. In no case shall labels or pasters be affixed in any manner after baking. No newspapers or other second hand paper shall be used for the purpose of lining tins or wrapping up bread or other bakery and confectionery goods.

MEDICAL CERTIFICATES

[Supplementary to Labor Law, § 113-a]

Rule 346.—For every person who works in any bakery, confectionery or mercantile establishment, in the manufacture, preparation, packing, storage, sale or delivery of bakery or confectionery products, the occupier shall have in his possession a medical certificate of not more than six months' standing. The foregoing provision shall not apply to the sale or delivery of bakery or confectionery products if wrapped or in cartons. Such certificate shall be on a form prescribed by the Public Health Council of the State of New York and furnished by the Commissioner of Labor, and shall certify that the person employed is free from such contagious, infectious, communicable or skin diseases as the Public Health Council may deem necessary for the safeguarding of the public health. Such certificate shall be exhibited to the Commissioner of Labor on demand. Nothing herein contained shall affect the right of the Commissioner of Labor to require medical examination in accordance with section 113-a of the Labor Law.

This rule shall go into effect when and if the Public Health Council requires the issuance of such certificates by local health officers without charge.

Compare the following from Chapter 2 of the Sanitary Code established by the Public Health Council:

Regulation 39 — Handling of food forbidden in certain cases

No person affected with any communicable disease shall handle food or food products intended for sale, which are likely to be consumed raw or liable to convey infective material.

No person who resides, boards, or lodges in a household where he comes in contact with any person affected with bacillary dysentery, diphtheria, epidemic or septic sore throat, measles, scarlet fever, or typhoid fever, shall handle food or food products intended for sale.

No waiter, waitress, cook, or other employee of a boarding house, hotel, restaurant, or other place where food is served, who is affected with any communicable disease, shall prepare, serve, or handle food for others in any manner whatsoever.

No waiter, waitress, cook, or other employee of a boarding house, hotel, restaurant, or other place where food is served, who lodges or visits in a household where he comes in contact with any person affected with bacillary dysentery, diphtheria, epidemic or septic sore throat, measles, scarlet fever, or typhoid fever, shall prepare, serve, or handle food for others in any manner whatsoever.

EXISTING CELLAR BAKERIES

[Supplementary to Labor Law, § 116]

Rule 347.—In case any bakery that was legally operated in a cellar on January 1, 1914, shall be discontinued or unused for a period of more than four consecutive months, it can thereafter be reopened as a bakery only by complying with the provisions of section 116 of the Labor Law as to future bakeries. The occasional operation of a bakery for the purpose of evading this rule shall not be deemed a continuance or use thereof. The "Certificates of Exemption" issued by the Commissioner under section 116 of the Labor Law shall include this rule.

FIRE ALARM SIGNAL SYSTEMS OF FACTORIES

[Supplementary to Labor Law, § 83-a; adopted July 8, 1914; effective August 15, 1914; the State Industrial Board issues pamphlet lists of approved material for fire alarm signal systems; the first of these lists has been published, January 22, 1915, as a Supplement to Bulletin No. 5 of the Industrial Code]

Rule 375

GENERAL

All devices and equipment constructed and installed under these specifications shall conform to the requirements of the Industrial Board.

The Fire Commissioner in the City of New York and the State Fire Marshal in all other parts of the State are designated by law as the supervising authorities.

Full information as required by the supervising authorities shall be furnished the supervising authorities and approved by them before the installation is started.

All systems to be installed in a workmanlike manner and in accordance with the requirements of the supervising authority, but not inconsistent with these specifications.

Fire alarm installations heretofore made in New York City and approved by the Fire Department of said city will be accepted by the Industrial Board. Other installations heretofore made may be accepted in the discretion of the Industrial Board, upon formal application for such approval.

Systems other than those specified herein may be accepted by the Industrial Board when after examination such systems are found reliable and workable in a manner satisfactory to the Industrial Board.

All material shall be rigidly secured in position, and when attached to masonry walls shall be properly fastened by metal expansion shields or toggle bolts. Wooden plugs will not be accepted. When deemed necessary by the supervising authority to mount fire alarm apparatus upon a back board, such back board shall be not less than seven-eighths of an inch ($\frac{7}{8}$ ") in thickness, filled with a non-absorptive compound with an air space of at least one-quarter of an inch ($\frac{1}{4}$ ") behind the back board for the free circulation of air.

There shall be a Board of Approval, to consist of a representative of the State Fire Marshal, to be designated by him; a representative of the Fire Commissioner of the City of New York, to be designated by him; a representative of the Industrial Board, to be designated by the chairman of the Board; and the secretary of the Industrial Board. The Board of Approval shall pass upon all devices and apparatus for use in approved installations. Such Board of Approval shall submit reports to the Industrial Board for consideration and final approval.

TESTS

All systems shall test free of grounds and the contractor shall upon the completion of the fire alarm system make a satisfactory test of the entire equipment in the presence of and under the direction of the supervising authorities or their authorized agent, before final approval and acceptance. The contractor shall also furnish all the necessary tools to conduct this test.

GUARANTEE

It is suggested that the entire system including all alarm boxes, signals, wiring, batteries and other devices shall be guaranteed against any defects in material or workmanship for a period of two years from the date of acceptance by the supervising authority; any defects which may develop in the equipment during this period to be remedied by the contractor without expense to the owner.

It is recommended that contracts for installation of systems contain a clause stating that the final payment will be withheld until acceptance by the supervising authority.

EQUIPMENT

Approved fire alarm equipment is manufactured by and can be procured from the leading manufacturers and electrical supply jobbers in the principal cities. Manufacturers must submit to the Industrial Board, for general approval, samples of their devices and equipment constructed for use under these requirements. Apparatus so submitted and approved shall again be subject to inspection upon installation and shall be rejected if working unsatisfactorily or if differing from the sample submitted for general approval.

ACCESSORIES

Automatically operated circuit breakers and engine stops for shutting down machinery in extremely noisy or hazardous premises may be required, connected with and made a part of the fire alarm system, but in no case shall such circuit breakers or engine stops be installed in such a manner as to cut off the power for lighting current or for operating elevators.

DESCRIPTION OF SYSTEMS

Systems, including all fire alarm boxes and signaling devices shall be wired on closed circuits; signaling devices wired on open circuits shall not be used except by special permission of the Industrial Board. Boxes in all cases to be on closed circuits. A current flow of at least 50 per cent in excess of the minimum current capable of transmitting a fire alarm signal must be maintained; a weaker current to constantly supervise each closed circuit may be permitted under conditions acceptable to the Industrial Board.

When an alarm has been sent in from any one of the alarm boxes, all the signaling devices on the various floors of the building shall automatically sound the number indicating the floor from which the alarm was sent and shall repeat the signal at least four times. The fire alarm system shall not be used for any other purpose. A milliammeter or other approved current indicator shall be provided in every closed circuit. All signaling devices, alarm boxes, relay boxes and alarm box enclosing cases shall be finished in red to distinguish them from other signaling apparatus.

TROUBLE SIGNALS

A trouble bell shall be provided in connection with each closed circuit to ring continuously in case of weak batteries or an opening of the circuit. The bell, which shall be of an approved design of the vibrating type, must be placed in the engine room or other approved central point. At least four cells

of open circuit battery of approved make and type shall be provided for the bell. The bell and battery shall connect with the contacts of a relay having its magnet windings in series with each closed circuit.

MAINTENANCE

The system shall be tested every morning immediately after the hour of starting work in the building to insure the system and the batteries being in an operative condition. The test signal shall consist of two taps or blasts. Each alarm box shall be operated at least once every month to prove that the mechanism is in perfect working order in addition to necessary use of boxes in fire drills. All apparatus operated by springs requiring winding shall be rewound after each alarm and kept in normal condition for operation. A complete record shall be kept of the operation of each system, which will be subject to inspection by the supervising authority, or their authorized agent.

FIRE ALARM BOXES

There shall be one or more fire alarm boxes on each floor of the building located in the natural path of escape from fire; there should usually be a box at each required means of exit. Boxes shall be of an approved type and make and may be operated by a lever or by breaking glass. The box should be so designed that when once started the proper transmission of a complete set of signals cannot be interfered with by manipulation of its starting devices. Each box shall be arranged to send a definite code of signals to indicate the floor or portion of same on which it is located. Not less than three taps or blasts shall be sounded at each revolution of the break wheel. The following suggestion is offered as a guide to assist in the arrangement of the signal code but is not to be considered as mandatory.

Single building of four floors and basement: First floor 2—1, second floor 2—2, third floor 2—3, fourth floor 2—4, basement 2—5.

Whenever fire alarm boxes are made a part of a system in which electro-mechanical gongs are employed, brake wheels should be so designed that the single duration shall be not less than one-half second with silent interval of not less than one-half second between signals, except between numbers consisting of two or more digits and silent period between rounds.

Lever boxes, except succession boxes, shall be designed to automatically wind when lever is pulled for alarm. All parts of the mechanism shall be of the best grade and workmanship. Contact points operated by a break wheel and contact points on testing devices shall be of platinum, silver, or other approved material, and shall be of the scraping type. All current carrying parts shall be properly insulated. All contact points shall be secured in a substantial manner to phosphor bronze springs. The contacts shall be so constructed as to positively break a circuit carrying 250 volts and 1/10 ampere under actual working conditions. All stations shall be provided with means of testing, comprising arrangements to make such tests without operating the break wheel of the box. Provision shall also be made for a silent test of the box mechanism without operating the signaling devices. The testing device shall be of a design which will prevent any person except those in authority from operating same. Testing devices must be so designed as to prevent the possibility of box being left inoperative.

There shall be a metal case enclosing the movement completely and made dust proof as far as possible by the use of gaskets or other suitable means. The metal case shall be drilled and tapped to receive standard conduit at top and bottom. All pull box cases shall be fitted with a glass panel or a door which can readily be opened, so constructed as to protect the pull lever against accidental injury and on which a handle is rigidly secured. The wording, "In case of Fire open Door and pull down lever as far as it will go," or equivalent instructions, must appear on the door. If used in exposed places the box shall be enclosed in a suitable weatherproof outer shell. Approved types of break-glass boxes will be acceptable with no additional protection, except where made necessary by weather conditions; and all break-glass type fire alarm boxes shall be provided with suitable hammers on chains which shall be attached to or near the boxes so that the glass can readily be broken. All break-glass boxes shall have lettered on the fronts the words, "Fire Alarm — In case of Fire break glass." All boxes requiring glass replacements shall be so arranged that replacements cannot be made until the mechanism is reset for another alarm.

SIGNALING DEVICES

General

Signaling devices may consist of bells of approved type, or other devices acceptable to the Industrial Board. There shall be installed on each floor of the building one or more alarm devices, sufficient in number and efficiency to be plainly heard throughout the floor, above the noise of the machinery and other sounds. Where floors are divided by fire walls each section may in the discretion of the supervising authority be deemed a separate floor for the purposes of these requirements. Systems consisting of several types of sounding apparatus should be avoided. The number of signal devices on a circuit may be limited at the discretion of the supervising authority.

All signaling devices shall be of an approved type and the movement enclosed in a dust-proof metal casing insulated from all current-carrying parts. Where conditions require it damp-proof casings shall be installed. Signaling devices shall be placed with their lowest parts about eight feet from floor. Wherever there is danger of mechanical injury, the entire device shall be enclosed in a protecting case made of approved wire netting or perforated metal. This casing shall be insulated from all current-carrying parts, but grounded to conduit.

Magnet windings shall be impregnated with an insulating moisture repelling compound or shall be of enameled wire. All internal connections must be properly protected, securely made, and where subject to motion to be of stranded flexible wire with substantial insulation. Binding posts shall be of such a character that wire is held between two flat surfaces; posts employing a set screw the end of which is used to pinch or bind the wire will not be accepted.

Gongs shall be made of a high grade of cast bell metal or other approved material.

Adjustments must be of such a character that they can be securely locked in an approved manner.

Contact points shall be ample in area, not only to take care of current used in operation, but to insure long life, and shall be of pure silver, platinum, or other approved material.

Whenever necessary hammer rod shall be suitably protected against mechanical injury or derangement by the use of a guard or other suitable means.

RELAYS

All relays shall be of an approved type and make. Magnet windings shall be impregnated with an insulating moisture repelling compound or shall be of enameled wire. All relays shall be enclosed in an approved metal case under lock and key and located where there is no danger of sparking contacts igniting inflammable gases or flyings.

Relays shall be mounted where they will be least affected by vibration in the building, and in no case shall they be mounted on the same back board with sounding apparatus, or so that they will be affected by the vibration caused by such sounding apparatus, and shall be marked plainly with the maximum and minimum operating current values to which such relays will safely respond.

WIRING

The following methods of and materials for the wiring of the system will be approved:

All conductors shall be run in approved metallic conduits or armored cable.

The conduit system shall be permanently and effectually grounded.

All conductor wires used shall be rubber covered and braided National Electrical Code standard. The coil shall bear manufacturer's name and month and year of manufacture.

Wiring in all systems shall be installed after the manner prescribed under National Electrical Code rules as applying to conduit and armored cable installation for light and power circuits except that single braided wire may be used when source of energy is from primary batteries.

In vertical risers no splices will be permitted. All splices shall be made secure, electrically and mechanically, and be soldered without the use of an acid flux, and insulated with rubber and friction tape. All splices shall be in junction or terminal boxes.

No conductor of less than 16 B. & S. gauge nor having a rubber insulation wall of less than 3/64" thick will be approved. Multiple conductor cables not complying with the above requirement shall be subject to special approval.

Where wires pass from one building to another, they must be enclosed in conduit under ground between buildings, wherever possible, and when so installed must be lead encased.

Wires between buildings when not run in conduit must be at least equivalent in conductivity and tensile strength to No. 12 B. & S. copper for box and signaling circuits. They must be supported at least every seventy-five feet on approved glass insulators and brackets. As far as possible they should be run under rather than over electric light or power wires, and be provided with safety devices in accordance with the National Electrical Code rules.

SOURCES OF ELECTRICAL ENERGY

The following sources of energy may be employed:

1. Storage batteries in duplicate.
2. Electric light or power system (public service or isolated plant) supplemented by a storage battery.
3. Private (isolated) plant as preferred source, supplemented by energy from public service lines.
4. Primary batteries in duplicate.

STORAGE BATTERIES

Storage batteries may be employed if under competent supervision and equipped with reliable charging and controlling devices. The following rules apply to such installations:

A sufficient number of storage cells shall be provided in battery to secure maximum efficiency in operation, the required number in each installation to be approved by the supervising authority.

Complete details of installation shall be filed in duplicate and approved in each case before the necessary installation is commenced.

Storage batteries shall be of approved make and type, and shall be in duplicate sets when constituting the only source of energy. Each set of batteries to be capable of maintaining the system efficiently for three days without recharging.

Storage batteries shall be installed in an approved manner in properly ventilated protecting cabinets and wherever possible shall be placed in a room separate from that containing other fire alarm apparatus. If these batteries are placed in a separate room with proper ventilation and where they will not be subject to mechanical injury, protecting cabinets will not be required.

When lead or caustic soda batteries are used, approved heat resisting jars are preferred, and at least one transparent jar shall be used in each series for the purpose of observing the condition of the elements.

The battery in service shall not be disconnected from the fire alarm system during working hours in the factory.

A difference of potential of more than fifty volts will not be allowed on working circuits or storage battery systems when the current flow at any time through any part of the system is more than one ampere.

A full description of the operation of each system, together with instructions for its proper care and maintenance, must be posted in a conspicuous place and in a substantial manner near a point where the person in charge of the system is generally employed.

The potential of the charging circuits shall not be over 250 volts and these circuits shall be installed in compliance with the rules of the National Electrical Code.

CHARGING BOARDS

A suitable charging switchboard of slate, marble or other approved material shall be provided, constructed in accordance with National Electrical Code rules, and shall be provided with not less than the following equipment:

For direct current.—A main double pole, National Electrical Code, fused-knife switch of proper capacity arranged for enclosed National Electrical

Code fuses, except that fuses of one-half ampere capacity or less need not be enclosed if properly guarded. These fuses to be approximately 10 per cent in excess of maximum charging rate of batteries.

Underload circuit breaker of approved type.

Volt meter.

Ammeter, arranged to read charging rate.

Milliammeter, arranged to read current flow through closed circuit or circuits.

Double throw switch for changing from one set of batteries to the other, so arranged that the working circuits cannot be opened during the process of shifting.

Double pole, double throw charging switch.

FIXED RESISTANCE

Fixed resistance units (National Electrical Code standard) to be provided, one in each leg of the charging circuit of such a value as the operating conditions may warrant, but in no case shall the charging rate be in excess of two-thirds of the normal charging rate of the storage cells unless a variable charging rate is required. (See Variable Resistance.)

VARIABLE RESISTANCE

One-third of the total resistance to be used shall be fixed in each leg of the charging circuit, and the balance provided with approved shifting device for varying the charging rate; the minimum resistance to be such that the batteries cannot be charged in excess of their normal charging rate. Resistance in any case shall not unduly heat.

Lamps for resistance will not be accepted.

Each circuit shall be provided with fuses of a capacity 50 per cent in excess of the combined charging rate.

MOTOR GENERATORS

Motor generators of suitable capacity and standard design may be used for charging storage batteries and when used shall be installed in accordance with National Electrical Code rules and a proper field regulator provided in addition to regular switchboard equipment referred to above, except that resistance in charging circuit will not be required.

FOR ALTERNATING CURRENT

When alternating current is used for charging storage batteries, approved motor generator or rectifying sets with necessary transformer, National Electrical Code standard, shall be provided, together with approved switchboard equipment.

NOTE.—Rectifiers may be installed only where they will be under competent supervision. When electrolytic rectifiers of a type and design bearing the approval of the Industrial Board are employed, a reserve set of electrodes and charge of salts shall always be on hand.

ELECTRIC LIGHT AND POWER SYSTEM

(Public Service or Isolated Plant)

SUPPLEMENTED BY A STORAGE BATTERY AND

Private (Isolated) Plant as Preferred Source

SUPPLEMENTED BY PUBLIC SERVICE LINES

Systems of this character are special, and complete details of installation shall be submitted for approval to the Industrial Board.

The Industrial Board may waive the requirement of a supplementary storage battery when the service furnished by the public service lines in any district or community is deemed by the Board to be adequate to all demands upon it, and for such districts or communities and for such periods as the Board may, from time to time, determine.

PRIMARY BATTERIES

The battery on the closed circuit shall be in duplicate when constituting the only source of energy and be provided with a base of porcelain or other approved material, and with a double pole, double throw, knife blade type switch of approved design, so arranged that when changing from one set of batteries to the other, the circuit cannot be broken. It shall consist of approved closed circuit cells of not less than 300 ampere hours capacity, except that other approved types of cells may be used in closed circuits containing no fire alarm boxes.

The voltage on any circuit where primary batteries are used shall not exceed 40. (The working voltage of approved closed circuit cells is .65 per cell.)

All batteries shall be coupled together by means of approved type battery connectors.

All batteries shall be placed in a substantial protecting cabinet, elevated not less than six inches nor more than five feet above the floor, located in a clean, dry and cool place, and where the temperature will be not less than 40 degrees Fahrenheit nor more than 100 degrees Fahrenheit.

Main battery cabinets shall be so constructed that the condition of the elements may be observed without disturbing the cells.

BATTERY CABINETS

METAL — Shall be of approved type, constructed of sheet iron or steel, not less than No. 14 gauge, properly reinforced by 1-inch angle iron. Doors shall be self-closing and provided with an approved lock and key.

Cabinet shall be provided with wood shelves not less than $\frac{1}{8}$ -inch thick and properly fastened and secured to prevent sagging.

The interior and the exterior of the cabinet shall be painted with three coats of asphaltum compound, each coat to be thoroughly dry before the next is applied; or baked enamel will be accepted in lieu thereof.

WOOD — Battery cabinets shall be constructed of the best grade of kiln dried whitewood or ash, not less than $\frac{1}{8}$ -inch thick. Cabinet shall be provided with two self-closing doors and approved lock. Shelves shall be not less than $\frac{1}{8}$ -inch thick, properly fastened and secured to prevent sagging.

All parts shall be properly fitted and cabinet shall be of substantial construction.

Cabinet shall be painted on the interior with three coats of asphaltum compound and on the exterior with three coats of lead paint or two coats of varnish.

Cabinet shall be thoroughly ventilated.

FOR ALL OTHER TYPES OF CELLS

All provisions of the specifications for battery cabinets for lead storage cells shall apply for all other types of cells, except that the painting or enameling may be omitted.

Where dry cells are housed in metal battery cabinets, the supports for same shall be so constructed that it will be impossible for the cells to come in contact with the metal of the cabinet. In all cases where dry cells are used provision shall be made to prevent their cartons from coming in contact with each other.

EXISTING FIRE ESCAPES OF FACTORIES

[Supplementary to Labor Law, §§ 79-a to 79-f; adopted and effective July 30, 1914]

Rule 380.—When, in addition to the required exits of any factory or factory building, there exist one or more outside fire escapes which are not entirely in accordance with the provisions of the Labor Law relating to fire escapes, such fire escapes may be retained without being changed to conform to such provisions, if steps are taken, satisfactory to the Commissioner of Labor, to prevent their use as means of egress, and provided that such fire escapes are maintained in good repair.

NOTE.—The Commissioner of Labor has ruled that such fire escapes must be structurally safe and that they shall not be used for fire drills.

At the openings leading to such fire escapes there shall be placed a sign, with letters eight inches high, reading "THIS IS NOT AN EXIT." No barrier or guard will be permitted at these openings.

FACTORY ELEVATORS AND HOISTWAYS

[Supplementary to Labor Law, §§ 79, 79-a; adopted November 24 and December 18, 1914; effective January 1, 1915]

FILING OF PLANS FOR FUTURE INSTALLATIONS

Rule 400.—Before any elevator shall hereafter be installed or reconstructed, the owner of the building, or the person contracting to make such installation or reconstruction, shall file with the Commissioner of Labor plans showing the type and general arrangement of the machinery and equipment as will be installed. Lifting capacity and speed of elevator must be specified on plans.

DEFINITIONS

Rule 401.—The term "passenger or employees' elevator," as used in these rules, shall be construed to mean an elevator either of the passenger or freight type on which passengers or employees are generally permitted to ride.

The term "freight elevator" shall be construed to mean an elevator on which no one except the operator and employees necessary for loading and unloading the elevator are permitted to ride.

The term "dumb waiter" shall include such special form of elevator the dimensions of which do not exceed sixteen (16) square feet in horizontal section and four (4) feet in height and which is used exclusively for the conveyance of small packages and merchandise.

HOISTWAY ENCLOSURES

Rule 402.—Existing hoistways, except where there are door openings into the car, shall be enclosed on all sides by walls, windows, screens, or partitions not less than six (6) feet high.

Rule 403.—Existing hoistway enclosures may remain in their present location when extending from the floor to the ceiling on open sides of the car and where the remainder of the hoistway enclosure is not less than six (6) feet high.

Rule 404.—In existing buildings where a hoistway is reconstructed or a new hoistway is installed except where there are door openings into the car or cars, such hoistway shall be enclosed on all sides by walls, windows, screens or partitions which shall extend from the floor to the ceiling. Such enclosure, however, shall in all respects conform to all requirements prescribed for the prevention of fire.

Rule 405.—For future installations, hoistway enclosures shall extend from floor to ceiling on all sides. Where there are door openings in the car the enclosures shall be set close to the hoistway line, allowing only necessary space for the doors and their fastenings between the enclosure and the edge of the floor sill.

Rule 406.—All ledges or floors in front of car openings that project more than one (1) inch from the inside of the hoistway enclosure shall be fitted with smooth beveled guards set directly under the projections. The slope of the guard shall be at least eighty (80) degrees from the horizontal wherever local conditions will permit. No beveled guards shall be permitted with slope less than sixty degrees from horizontal.

HOISTWAY GATES OR DOORS

Rule 407.—For elevators that carry passengers or employees, the sliding hoistway gates or doors shall be of suitable height and may be automatic or manually operated, and shall be fitted with a substantial lock or latch so that they cannot be opened from the outside except with a key.

Rule 408.—Hinged or swinging hoistway gates or doors may be used for elevators that carry passengers or employees or for freight elevators. Such gates or doors shall be manually closing and shall be provided with electrical contacts or such other devices, approved by the Commissioner of Labor, as will insure the gates or doors being closed and locked before the car can start from the landing. A switch shall be installed in the car to short-circuit the contact wiring in case of emergency. Keys shall be available for opening such gates or doors from the outside in cases of emergency.

Rule 409.—For freight elevators the hoistway gates or doors may be set to suit local conditions, provided that all fixed obstructions on the enclosure and floor projections are properly guarded as described in Rule 406.

Rule 410.—When vertical sliding gates are set less than twelve (12) inches from the hoistway line, they shall be not less than five feet six inches

(5' 6") high, and not more than ten (10) inches above the floor. Where it is impracticable to install gates five feet six inches (5' 6") high, the Commissioner of Labor shall have authority to modify this rule to meet individual conditions. A latch or other locking device shall be attached to the gate or its counterweight, so arranged as to prevent the gate being unlocked except by the car or operator when the car is at or near the landing.

Rule 411.—Vertical sliding gates set twelve (12) or more inches from the edge of the hoistway line may be three feet six inches (3' 6") high and not more than ten (10) inches from the floor. Tell-tale chains not less than four (4) feet long shall be suspended two (2) inches from the edge of the car platform sills and spaced six (6) inches between centers across the width of the opening. A latch or other locking device shall be attached to the gate or its counterweight, so arranged as to prevent the gate being unlocked except by the car or operator when the car is at or near the landing.

Rule 412.—The cross bars of vertically sliding enclosure gates or doors used for elevators on which freight is handled shall be sufficiently strong to resist one hundred and fifty (150) pounds pressure at the middle of the span without permanent deformation of the gate or door or their fastenings; all such gates shall close automatically as the car leaves the landing.

Rule 413.—Automatically closing gates that were installed previous to the adoption of these rules may be permitted to remain in place as installed, if equipped with a locking device as prescribed in Rules 410 and 411, provided the gates are sufficiently high and strong for the particular requirements where they are used. When such gates are less than five feet six inches (5' 6") high and are set closer than twelve (12) inches from the hoistway line, tell-tale chains not less than four (4) feet long and six (6) inch centers shall be suspended from the landing edges of the car platform.

Rule 414.—Automatically operated trap doors so constructed as to form a substantial floor surface when closed, and so arranged as to open and close by the action of the car in its passage both ascending and descending, shall be permitted, provided that in addition to such trap doors the hatchway shall be adequately protected on all sides at all floors, including the basement, by a substantial railing or other vertical enclosure at least three feet six inches (3' 6") high; such railing or vertical enclosure shall be placed at least twelve (12) inches from the hoistway line on all sides of the hoistway.

GRILLE WORK

Rule 415.—In all cases where the law or rules permit grille work enclosing the shaft or car, it shall be of substantial material and construction, properly braced and fastened, and there shall not be more than one and one-half (1½) inch space between any two (2) members of said grille work except that where plain straight bars are used, not filled in with scroll, there shall not be more than one (1) inch space between members, provided that in existing installations where the spaces exceed those specified in this rule it shall be deemed satisfactory if the grille work is made safe by suitable screen or wire mesh fastened to the hoistway or car enclosure.

PASSENGER ELEVATORS

Rule 416.—Door openings on cars used for carrying passengers or employees shall have gates or doors that shall be kept closed while the car is in motion. Every elevator for the carriage of passengers or employees, unless equipped with self-closing or automatic doors or gates, shall have placed therein or attached thereto such automatic device, mechanical or otherwise, approved by the Commissioner of Labor, as will insure the hatchway doors or gates being closed before the car can start from the landing. No locks will be required on the gates adjacent to the operator. All other gates or doors in the car except emergency exits shall have latches or locks that will prevent their being opened except when the car is at a landing, or they shall have electrical contacts that will stop the car in case any such gate or door is opened. A switch shall be installed in the car to short-circuit the contact wiring in case of emergency.

Rule 417.—The cars of all elevators used for carrying passengers or employees shall be substantially enclosed on all sides including the top, and shall have a trap door in the top of the car of such size as to afford easy egress for passengers or employees. Where two (2) or more cars are in the same shaft, emergency doors may be provided in the side of each car so that passengers or employees may pass from one car to another in case of emergency. The car roof shall be sufficiently strong to support the weight of a man.

Rule 418.—The lifting capacity of elevators hereafter installed used for carrying passengers or employees shall be not less than seventy-five (75) pounds for each square foot of car floor area.

FREIGHT ELEVATORS

Rule 419.—All freight cars shall have substantial enclosures not less than five feet six inches (5' 6") high on all sides not used for loading and unloading. When the enclosure is made of slats or bars the spacing shall be close enough to prevent a foot or hand being thrust through into the path of the counterweight or projections in the hoistway.

Rule 420.—The entire top of freight elevators shall be provided with a substantially constructed cover or grating made of not less than No. 8 gauge wire and not less than one and one-half (1½) inch mesh, or its equivalent in strength. No part of such cover or grating or of its supports shall be placed across the top of a freight car within eight (8) inches of the hoistway on its open sides, unless the car opening is equipped with a gate or door. Sections of the cover may be arranged to swing upward for handling bulky material.

Rule 421.—Freight elevators hereafter installed in factory buildings where more than one hundred (100) people are employed on one floor, in order to be available in case of emergency shall be capable of safely lowering a live load of not less than fifty (50) pounds per square foot of its platform area.

CLEARANCES

Rule 422.—For existing power elevators, the hoistway pit shall have sufficient depth so the car may stop level with the landing at the lowest terminal

when descending empty, and shall not strike the bottom of the pit when descending with a full capacity load in the car.

Rule 423.—In future installations there shall be not less than six (6) inch clearance between the under side of the car frame and the pit for cars of fifty (50) feet or less normal speed, and the clearance shall be increased six (6) inches for every fifty (50) feet additional normal car speed. Three (3) feet clearance between the under side of the car frame and the pit shall be the maximum space required. Buffers shall be installed in the pit to bring the car to rest without serious shock. The hoistway shall have sufficient head room to permit the car when empty to ascend and stop on the terminal automatic stops, and for cars of normal speed of one hundred (100) feet or less per minute the clearance between the car frame and the ceiling or overhead beams shall be not less than eighteen (18) inches for each fifty (50) feet increase in normal car speed the clearance shall be not less than six (6) inches additional. Five (5) feet clearance between the top of the car frame and the overhead grating, ceiling or beams shall be the maximum space required when the car is at its top landing.

SAFETY EQUIPMENT

Rule 424. All elevators that are used for carrying passengers or employees, and all freight elevators, unless otherwise specified in these rules, shall have safety jaws, of a type approved by the Commissioner of Labor, that will grip the guide rails and retard and hold the car with its full load, whenever the safeties are released or applied. In future installations, the safety jaws shall be located under the car platform.

Rule 425.—All elevators installed after these rules take effect shall be equipped with a speed governor whose action will trip and release the safeties whenever the car attains a downward speed of not more than two hundred (200) feet per minute, for elevators whose normal speeds are not over one hundred and fifty (150) feet per minute, and for greater car speeds the governor shall release the safeties before the car has attained a downward speed not more than forty (40) per cent. in excess of the normal car speed. No governor or governor rope fastening shall be set or fastened in the path of the elevator. The governor and safeties shall be of a type and capacity approved by the Commissioner of Labor.

Car safeties will not be required on direct plunger elevators, nor for side-walk type elevators which travel not more than thirty (30) feet between terminal landings.

Rule 426.—The cars shall be properly lighted at all times when they are in service; artificial illuminants shall be used when necessary.

Rule 427.—The car switch, lever or other controlling devices in elevators hereafter installed shall be located so the operator can readily handle the controller while facing the principal car opening. This rule shall also apply to existing installations when deemed necessary by the Commissioner of Labor.

Rule 428.—The car switch, lever or hand rope used for controlling the car shall be placed near one of the main loading sides of the platform. Where a hand rope or other controlling device is located outside of the car

platform a slot or section may be cut out of the car enclosure to enable the operator to reach and operate the controller.

Rule 429.—A substantial grating to carry a load of not less than five hundred (500) pounds shall be installed under the overhead sheaves and in any open spaces over an elevator hoistway that is not otherwise protected.

Rule 430.—Whenever a freight elevator is used without a regular operator it must be provided with a locking device that will hold the controller in "stop position" while the car is being loaded or unloaded.

FACTORS OF SAFETY

Rule 431.—All power driven elevators hereafter installed shall have no less than two (2) hoist ropes and two (2) ropes attached to each counterweight. All passenger or employees' elevators shall have hoist and counterweight ropes and their fastenings with factor of safety when new of not less than eight (8) and on freight elevators the factor of safety shall not be less than six (6), based on the total weight supported by the ropes when the elevator is loaded to its full rated capacity. Hoist ropes or cables shall be replaced when they become unsafe from wear, bruise or fracture. The ends of all hoist ropes shall be securely fastened and there shall be not less than one full turn thereof on machine drums.

Rule 432.—All hoisting machinery used in connection with an elevator shall have sufficient strength and power for the service for which it is used and shall be so equipped as to insure safe operation. All elevators shall have limit stopping devices in the hoistway and on the machine and they shall be kept adjusted so as to automatically bring the car to rest at both limits of travel.

COUNTERWEIGHTS

Rule 433.—Gate or door counterweights shall be guarded on all exposed sides.

Rule 434.—In future installations, all counterweights shall have their sections strongly secured together with tie rods passing through all the weights.

Rule 435.—In future installations the clearance space between the top of the counterweight and the overhead beams when the car strikes the pit buffers, shall be not less than eighteen (18) inches for cars of one hundred (100) feet normal speed, and the clearance space shall be six (6) inches additional for every fifty (50) feet increase in normal car speeds. Three (3) feet shall be the maximum clearance required, except for installations where the descending car has its speed diminished when entering the pit by long stroke buffers or other devices in addition to the usual machine slow down. In such cases allowance may be made for the car retardation and the clearance correspondingly decreased.

Rule 436.—Where there is a danger of physical injury to persons by contact with counterweights at the bottom of the counterweight runway, the weights shall be guarded with a substantial metal shield made of not less than No. 16 gauge iron or steel plates, or other material of equal strength. The height from the floor to the top of the shield shall not be less than six feet six inches (6' 6") and the shield shall extend to within eighteen inches of the floor.

In existing installations where the present clearance space is insufficient to properly install the enclosures, a guard of the same height shall be placed on one side of the counterweight guide rails and four (4) tell-tale chains not less than four (4) feet long shall be suspended from the bottom of the counterweight.

Rule 437.—At the upper terminal of the counterweight runway the counterweights used for elevators with drum type machines shall be guarded for a distance of eight (8) feet from the overhead beams.

Rule 438.—Counterweight guards at the upper terminal will not be required for elevators operated by plunger or piston type of hydraulic machines with fixed stroke, nor for elevators with traction rope drive where the counterweight cannot be drawn into the overhead beams.

Rule 439.—Counterweights that pass through the floors outside of the hoistway shall be guarded throughout their entire travel.

CARRIAGE HOISTS

Rule 440.—Power-driven carriage type hoists, installed prior to January 1, 1915, where the platform has hoist ropes fastened to its four corners, and without overhead car beam and car safeties, may be used for travel not exceeding fifty (50) feet between terminal landings. Hoistways for such carriage hoists shall be guarded in the same manner as hoistways used for freight elevators. (See Rule 402.) No person shall be permitted to ride on such hoists, and signs to that effect shall be posted on the enclosure.

HAND-POWER ELEVATORS

Rule 441.—Hand-power operated elevators may be used for travel not to exceed seventy-five (75) feet between terminal landings. The car shall be provided with safeties that will immediately stop and hold the car with its full load if one (1) or more hoist ropes should break. An enclosure not less than five feet six inches (5' 6") high shall be placed on all sides of the platform not used for loading or unloading, unless the vertical hoistway enclosure is run continuous from floor to ceiling on all sides of the hoistway. Tell-tale chains four (4) feet long and six (6) inch centers shall be suspended from the landing edges of the platform if the hoistway gates are less than five feet six inches (5' 6") high.

Rule 442.—Slots not more than ten (10) inches wide and not less than two (2) feet from the floor may be cut out of the hoistway enclosure in order to facilitate the operation of the pull rope from the landing floor. When the pull rope is located in front of the elevator entrance the enclosure gate may be two feet six inches (2' 6") high from the floor, provided that tell-tale chains not less than four (4) feet long and six (6) inch centers are suspended from the bottom of the car platform across the full width of the opening.

EXIT FACILITIES

Rule 443.—In future installations, no elevator or hoistway shall be permitted to descend into a passageway. After January 1, 1916, in existing installations, where it may be necessary to maintain a passageway under an elevator or hoistway, there shall be provided a substantial floor or bulkhead

with not less than seven (7) feet head room from the floor of the passage. The lowest terminal of such elevator shall be above the bulkhead.

Rule 444.—In all factory buildings there shall be a passageway or unobstructed means of exit leading from the elevator to the outside of the building when the elevator is at the lowest point of its travel.

SIGNS

Rule 445.—All elevator cars shall have a conspicuous sign which shall show the load that can be safely carried on the elevator.

MAINTENANCE

Rule 446.—All parts of the elevator machinery and the hoistway and car safeties shall be kept in good condition and shall be regularly inspected by some person competent to perform such service. Weekly inspection reports showing the condition of the elevator and hoistway shall be prepared and signed by the person making such inspection; the reports shall be made on a form prescribed by the Commissioner of Labor and shall be kept on file for his examination.

Rule 447.—Every elevator used for carrying passengers or employees must be in charge of a competent operator of reliable and industrious habits, not less than eighteen years of age, with at least one month's experience in running an elevator under the instruction of a competent person. This rule shall not apply to push-button or automatically operated type elevators.

FIREPROOF AND FIRE-RESISTING MATERIAL — FACTORY CONSTRUCTION AND TESTS

[Under authority of Labor Law, § 79-f, subd. 2; adopted October 29, 1914; effective November 15, 1914; the State Industrial Board issues pamphlet *Lists of approved floor, roof and partition construction*; the first of these lists has been published, January 1, 1915, as a Supplement to Bulletin No. 7 of the Industrial Code.]

SPECIFICATIONS OF FIREPROOF MATERIALS

FLOORS AND ROOFS

[Supplementary to Labor Law, § 79-a, subd. 1, § 79-f, subd. 1; for standard test see Rule 508.]

Rule 500.—All floors and roofs shall be constructed of steel or reinforced concrete beams and girders filled in between with (a) Segmental brick arches, having a rise of not less than 1 inch per foot of span, and a thickness of 4 inches and 8 inches respectively, for spans less or greater than 5 feet;

(b) Or, hard burned, semi-porous or porous terra cotta hollow tile arches, with shells not less than $\frac{3}{4}$ inch thick and webs not less than $\frac{5}{8}$ inch thick, and laid in Portland cement mortar, and having an effective depth of not less than $1\frac{1}{2}$ inches per foot of span in the case of flat arches, and a rise of not less than 1 inch per foot of span in the case of segmental arches. Segmental arches shall be not less than 6 inches in thickness; flat arches shall be not less than 8 inches in thickness;

(c) Or, reinforced stone concrete, consisting of one (1) part Portland cement and not more than six (6) parts of a properly proportioned aggre-

gate consisting of sand and stone passing a 1-inch ring, and not less than 4 inches thick in the case of floors, and not less than 3½ inches thick in the case of roofs designed in accordance with the current regulations suggested in the report of the joint committee on concrete and reinforced concrete of the American Society of Civil Engineers, American Society for Testing Materials, American Railway Engineers Association and the Association of American Portland Cement Manufacturers;

(d) Or, any form of construction not less than 4 inches thick in the case of floors and not less than 3½ inches thick in the case of roofs which shall have passed successfully a standard four-hour fire, load and water test.

FIREPROOF PARTITIONS

[*Supplementary to Labor Law, § 79-a, subds. 3, 6, § 79-f, subds. 1, 5; for standard test see Rule 509.*]

Rule 501.—Fireproof partitions when specified by the provisions of the Labor Law shall be built of

(a) Brick or concrete not less than 8 inches in thickness for the uppermost 40 feet, increasing 4 inches in thickness for each additional lower 40 feet or part thereof; or when supported at vertical intervals of not over 40 feet, not less than 8 inches in thickness throughout their entire height;

(b) Or, terra cotta blocks as described in Rule 500 not less than 6 inches in thickness, supported at vertical intervals of not over 25 feet;

(c) Or, reinforced stone concrete of the same mixture as required for floors and roofs described in Rule 500 not less than 4 inches in thickness, supported at vertical intervals of not over 25 feet;

(d) Or, reinforced cinder concrete consisting of one (1) part Portland cement and not more than seven (7) parts of a properly proportioned aggregate of sand and cinders, not less than 4 inches in thickness, supported at vertical intervals of not over 18 feet;

(e) Or, any form of construction, when safely supported, which shall have successfully passed a standard three-hour fire and water test.

The supporting steel framework of all partitions shall be properly encased on all sides with not less than 2 inches of fireproof material, securely fastened to the steel work. The reinforcement shall be protected by not less than ¾ inch of fireproof material on each side. All fireproof partitions shall be properly braced at the floor levels, through which they pass.

FIRE DOORS

[*For buildings erected after October 1, 1913; supplementary to Labor Law, § 79-a, subd. 6, § 79-f, subd. 6; for standard test see Rule 510.*]

Rule 502.—Fire doors in buildings erected after October 1, 1913, when specified by the provisions of the Labor Law for elevator and stairway enclosures and openings in fire walls, are doors of any of the following materials and form of construction:

(a) *Tin clad.*—Three thicknesses of ⅞-inch dressed, tongued and grooved white pine or other non-resinous wood board not more than 8 inches wide, securely clinched with wrought iron nails, and covered with 14-inch by 20-inch sheets of terne plate of at least 1 C. quality, joints locked full ½ inch and nailed under seams with at least 12½ gauge flat head, full barbed wire nails, 2 inches long.

(b) *Plate iron*.—Wrought iron or steel plates at least $\frac{3}{16}$ inch thick, having 2-inch by 2-inch by $\frac{3}{8}$ -inch angle iron stiles and rails, centre rails and centre stiles on one face, or 3-inch by $\frac{1}{4}$ -inch flat bar stiles and rails on both faces; no unstiffened panel shall be more than 9 square feet in area; all parts shall be securely riveted with $\frac{3}{8}$ -inch iron rivets.

(c) *Composite*.—A skeleton framework of at least $1\frac{1}{2}$ -inch by $\frac{1}{4}$ -inch channels, angles or T's covered on both sides with at least $\frac{1}{8}$ -inch wrought iron or steel plates, filled solid with mineral fibre, asbestos, gypsum or other incombustible material.

(d) *Or, any form of door construction* that shall have successfully passed a standard one hour fire and water test.

(e) Fire doors in buildings erected after October 1, 1914, for other than stairway and elevator enclosures and openings in fire walls, are doors which shall meet the requirements of Rule 507-c.

All fire doors shall be provided with approved self-closing devices and approved incombustible sills, frames and hardware, or, in lieu of frames, shall lap the sides and top of openings at least 4 inches. Sliding doors shall lap the sides and top of openings at least 4 inches.

The name of the manufacturer shall be placed on every fire door in such manner as to be easily seen when door is in place.

FIREPROOF WINDOWS

[Supplementary to Labor Law, § 79-a, subd. 6, § 79-f, subd. 7; for standard test see Rule 511.]

Rule 503.—Fireproof windows when specified by the provisions of the Labor Law are stationary or self-closing windows of wired glass, with selvage removed, not less than $\frac{1}{4}$ inch thick, with panes not greater than 720 square inches, nor more than 48 inches in any dimension, each pane of glass set between stops and rabbets at least $\frac{3}{4}$ inch deep with bearings of at least $\frac{5}{8}$ inch at all points, with incombustible material for weather-proofing. The frames for holding the wired glass shall not exceed 5 feet by 9 feet between supports, and frames and sash shall be constructed of

(a) *Masonry*.—That is, the glass may be set directly in the masonry opening, with bearings other than in muntins at least $1\frac{1}{4}$ inches at all points;

(b) *Or, hollow-sheet metal* at least No. 24 U. S. standard gauge galvanized iron, or 20-ounce copper. The several parts of the frames and sash to be of one piece of metal where possible. All joints to be made with interlocking seams, or riveted or brazed in a substantial manner. No soldered joints to be used in essential parts;

(c) *Or, wrought iron or steel* of the following minimum dimensions, frames $3\frac{1}{2}$ -inch by $\frac{3}{8}$ -inch flat iron, welded or riveted; sash $1\frac{1}{2}$ -inch by $1\frac{1}{2}$ -inch by $\frac{1}{4}$ -inch angle iron, welded at corners; muntins $1\frac{1}{4}$ -inch by $1\frac{1}{2}$ -inch by $\frac{1}{4}$ -inch T-iron, welded to each other at each intersection and to the stiles and rails. Stops holding the glass in the frames to be 1-inch by 1-inch by $\frac{1}{8}$ -inch angle iron, fastened with bolts, so that they can be removed for reglazing;

(d) *Or, metal covered*.—Wood covered with at least 24 U. S. standard gauge galvanized iron, or 20-ounce copper. The several parts of the frames

and sash to be covered with one piece of metal where possible. All joints to be made with interlocking seams, or riveted, or brazed in a substantial manner. No soldered joints to be used in essential parts. The metal to be continuous around all parts of the frame and sash, behind all beads, and must be turned back between the frame and masonry on both faces for at least 1 inch and be securely fastened to the frame by flat head, full barbed wire nails not less than $\frac{3}{4}$ inch long.

(e) Or, any form of frame and sash that shall have successfully passed a standard three-quarter hour fire and water test.

Mullions dividing fireproof windows shall in all cases be either solid masonry at least 12 inches wide outside face or I beams not less than 5 inches in depth or other metal section of equal strength, fireproofed with at least 2 inches of fireproofing, the metal frames to be securely attached to the reinforcing members. Where movable sash is used, it shall close automatically by the failure of a fusible link, or by other approved means of effecting closure.

The name of the manufacturer shall be placed on every fireproof window in such manner as to be easily seen when window is in place.

FIRE-RESISTING MATERIAL

[Supplementary to Labor Law, § 79-b, subd. 2; for standard test see Rule 512]

STAIRWAY ENCLOSURES

Rule 504.—(a) Any form of fireproof partition as previously defined.

(b) Any form of partition construction that has successfully passed a standard one hour fire and water test;

(c) Or, wood studs not less than 2 inches by 4 inches lathed each side with at least No. 24 U. S. standard gauge metal lath and plastered with Portland cement mortar finishing at least $\frac{3}{4}$ inch thick on each side;

(d) Or, wood studs not less than 2 inches by 4 inches properly bridged to support filling and filled in with mineral wool, asbestos, gypsum, or other similar incombustible material, packed to density of at least 25 lbs. per cubic foot, or cinder fill one to ten mix, covered on each side with plaster board, or asbestos board, at least $\frac{3}{4}$ inch thick, and plastered with Portland cement mortar, finishing at least $1\frac{1}{8}$ inches thick, including board thickness, or covered on each side with metal lath or wire netting nailed directly to the studs, and plastered with Portland cement mortar, finishing at least $\frac{3}{4}$ inch thick;

(e) Or, wood studs not less than 2 inches by 4 inches filled in with masonry four inches thick, and plastered on each side with Portland cement mortar finishing at least $\frac{3}{4}$ inch thick;

(f) Or, existing wood stud, lath and plaster partitions, stripped of all wood base and other trim and covered with at least No. 24 U. S. standard gauge metal lath on each side, firmly secured to the studs by staples through the existing lath, and plastered on each side with Portland cement mortar, finishing at least $\frac{3}{4}$ inch thick.

(g) Any form of partition construction that has successfully passed a standard one hour fire test.

Rule 505.—Fire-resisting partitions shall be continued through wood floors or shall extend from the upper side of the wood floor in any story to the underside of the wood floor and timbers in the story above to which they shall be safely secured, and shall form, with the fire-resisting doors, floors and ceilings, an unbroken fire-resisting protection, separating the stairway and exit passageways from the non-fire-resisting portions of the building. In unfilled wood stud partitions, the space between the beams shall be fire stopped by approved fire-resisting materials.

In general, fire-resisting partitions shall be self-supporting or safely supported on fireproofed steel or reinforced concrete beams, girders and columns, or upon wood beams, girders and columns made fire-resisting by approved fire-resisting materials.

In special cases, in existing buildings, where the fire-resisting partitions are not in a vertical line, they may rest upon wood beams and girders, provided, that all the header and trimmer beams supporting said partitions are made fire-resisting by approved fire-resisting materials on that portion where the extreme fibre stress exceeds three-quarters of the safe allowable working stress.

Wire glass not less than $\frac{1}{4}$ inch thick will be permitted in fire-resisting partitions and doors when set in stationary fireproof sash and frames, not exceeding, however, 360 square inches for any single pane of glass and not exceeding 720 square inches on any story. Provided that in each case, the approval for the use of wire glass is given by the Commissioner of Labor.

Rule 506.—Fire-resisting partitions, now in place, constructed in such manner and of such fire-resisting material, as have heretofore been approved by the local authorities exercising supervision over the construction and alteration of buildings, will be accepted when complying with the following requirements:

(a) Each side of existing partition covered with $\frac{1}{2}$ -inch approved plaster board protected by not less than 26 U. S. standard gauge metal, both nailed to the woodwork.

(b) Each side of the existing partition covered with 2 thicknesses of $\frac{1}{4}$ -inch approved asbestos board with staggered seams, provided that where in the opinion of the Commissioner of Labor protection is necessary against mechanical injury, such protection shall be provided.

(c) And in buildings not over 6 stories in height existing wooden partitions, double thickness, $\frac{7}{8}$ -inch board covered on both sides with 20 U. S. standard gauge metal, or with 26 U. S. standard gauge metal with lapped seams.

FIRE DOORS

[For buildings erected prior to October 1, 1913; supplementary to Labor Law, § 79-b, subds. 2, 4, § 79-f, subd. 6; for standard test see Rules 510, 513.]

Rule 507.—Fire doors in buildings erected prior to October 1, 1913, when specified by the provisions of the Labor Law are doors of the following materials and form of construction:

(a) Any form of fire door as previously defined in Rule 502;

(b) Any form of fire door that has been heretofore installed which shall meet the approval of the Commissioner of Labor;

(c) Or, any door that shall have successfully passed a one-hour fire test. (See Rule No. 513.)

All fire doors shall be provided with approved self-closing devices and approved incombustible sills, frames and hardware or, in lieu of frames, shall lap the sides and top of openings at least 4 inches. Sliding doors shall lap the sides and top of openings at least 4 inches.

The name of the manufacturer shall be placed on every fire door in such manner as to be easily seen when door is in place.

STANDARD TESTS

NOTE.—In Rules 508 to 518, following, are given the methods of conducting tests to determine the fire-resisting qualities of various materials and forms of construction used in building practice. These methods are stated in full detail, as to the construction of the test huts or chambers, the method of conducting the tests and recording the results of same, in order to fully set forth for immediate use the course of procedure to be followed for the purpose of obtaining the approval of any new material or form of construction.

However, the Industrial Board may recognize tests and methods of testing, other than those hereinafter specified, when the same are of equal severity, and when duly authenticated records of such tests are submitted. To be acceptable, such other tests shall have been arranged on scientific lines and conducted at laboratories of recognized standing by disinterested scientific men. All reports of such tests shall state the facts and occurrences, and shall be accompanied with tables, diagrams, illustrations and a log of the test in sufficient detail to give an accurate description of the test specimen, a complete record of the skilled conduct of the test and the effect of the test upon the construction under observation. A list of the professional men in attendance shall accompany each report.

TEST OF FIREPROOF FLOORS AND ROOF CONSTRUCTION

[See Rule 500]

Rule 508—The test structure may be located at any place convenient to the applicant subject to the approval of the Industrial Board, where all the necessary facilities for properly conducting the test are provided.

The entire expense of the tests is to be sustained by the applicant.

It is understood that the workmanship and materials in the test structure represent ordinary conditions, constructed as in actual practice, with the quality of material ordinarily used in that system as in a finished floor.

If the proposed construction is approved, the standard of workmanship and material is to be maintained in any and all work thereafter constructed. The maximum thickness of fireproof protection upon the exposed parts of the beams and girders of the system tested must be maintained thereafter in actual installation.

The walls of the test structure may be constructed of any material and thickness that will carry the imposed load and safely withstand and confine the fire for the required time.

The floor or construction to be tested shall form the roof of the test structure.

At a height of not less than 2 feet 6 inches nor more than 3 feet above the ground level, a metal grate, properly supported shall be provided, covering the whole inside area of the building.

In the walls below this grate level, draught openings shall be provided, as many as possible, furnishing openings with an aggregate area of not less than 1 square foot for every 10 square feet of grate surface. Means for temporarily closing these openings should be provided.

In the wall, immediately above the grate level, a firing door, 3 feet 6 inches by 5 feet high, must be provided in the side of the building at right angles to the floor beams. A second door must be added when the span of the floor slab under test exceeds 10 feet.

Flues should be supplied at each of the corners, and oftener in case of a test structure exceeding 250 square feet of grate surface, with sufficient opening to insure a proper draught, securely supported and disposed at the sides of the structure in such manner as not to rest on the floor under test. In no case should a flue area be less than 180 square inches.

The horizontal dimensions of the test structure will depend upon the number and the span of the systems under consideration. The clear span of the floor beams is to be not less than 14 feet. The distance between floor beams, or span of slab, may be varied according to the design of the system to be tested, and should be as near as possible to usual practice. The underside of the construction under test must be not less than 9 feet 6 inches nor more than 10 feet above the grate level.

The construction to be tested should be designed for a working load of 150 pounds per square foot. The load is to be uniformly distributed in segregated piles without arching effect, and is to be carried on the floor during the fire test.

The floor may be tested as soon after construction as desired but within forty days. Artificial drying will be allowed if desired.

No plastering shall be applied to the underside of the floor construction under test.

The floor shall be subjected for four hours to the continuous heat of a fire of an average temperature of not less than 1700° F.; the fuel used being either oil, wood, gas, or other fuel, so introduced as to cause an even distribution of heat throughout the test structure. When fuel other than wood is used, modifications in the test oven above described may be made, subject to the approval of the Industrial Board.

The temperatures obtained shall be measured by means of standard pyrometers, under the direction of an experienced person. The type of pyrometer is immaterial so long as its accuracy is secured by proper standardization. The temperature shall be measured at not less than two points when the main floor span is not more than 10 feet and one additional point when it exceeds 10 feet.

Readings at each point are to be taken every three minutes. The heat determination shall be made at points directly beneath the floor so as to secure a fair average.

At the end of the fire test a stream of water shall be directed against the underside of the floor, discharged through a 1½-inch nozzle, under 60 pounds nozzle pressure, for five minutes, the nozzle being held not more than 3 feet from the firing door during the application of the water. The hose stream shall be played backward and forward over the entire under surface of the floor under test. The top of the floor is then flooded at low pressure for five minutes, after which the water is again applied to the underside at 60 pounds nozzle pressure for five minutes longer. The actual water pressure obtained must be accurately determined at the nozzle by means of nozzle stream Pitot tube with pressure gauge.

After the floor has sufficiently cooled the load on the same shall be increased to 600 pounds per square foot, uniformly distributed in segregated piles without arching.

Deflection readings shall be taken before starting the fire test, during the fire test, at maximum load and after release of load.

The test shall not be regarded as successful unless the following conditions are met. No fire or a considerable volume of smoke shall pass through the floor during the fire test; the floor must safely sustain the loads prescribed; the permanent deflection must not exceed one-eighth inch for each foot of span in either slab or beam.

In case the system satisfactorily withstands the tests prescribed in this article and approval is granted for its use in this State, the maximum span that could be used in practice must not exceed that of the arch as tested, and the live loads must not exceed 150 pounds per square foot. No increase of capacities or change in details of construction will be permitted because of shorter spans being used.

If the approval of greater live loads than 150 pounds per square foot for any construction or the approval of any material change in detail is desired, further tests will be required.

Whenever so directed by the Industrial Board, the owner or constructor at his own expense, shall cause to have made load and other tests to prove the quality of the workmanship and materials employed in the fireproof floor or roof installation in any building. The floor arches shall in all cases develop in thirty days after erection a strength equal to twice the live load they are designed to support without signs of failure. The loads shall consist of such material and shall be so placed as to form a uniformly distributed load on the entire area to be tested, without arching affect. Test loads shall remain in place at least twenty-four hours. All floor construction which shows signs of failure when tested, as herein described, shall be condemned by the Industrial Board and shall be replaced by the owner or contractor by approved floors.

All tests intended to comply with the above specifications shall be conducted by a competent, disinterested authority approved by the Industrial Board. Reports on all such tests, whether the construction is approved or disapproved, shall be placed on file in the Department of Labor. These reports shall state the facts and occurrences, and shall be accompanied with tables, diagrams, illustrations and a log of the test in sufficient detail to give an accurate description of the test specimen, a complete record of the skilled conduct of the test and the effect of the test upon the construction under observation. A list of the professional men in attendance shall accompany each report.

In all cases where the materials or devices are submitted to the Industrial Board by an applicant for approval of the same and are disapproved after test or examination by the Industrial Board, the applicant shall be entitled upon request, to a copy of the report of such test or examination.

TEST OF FIREPROOF PARTITION CONSTRUCTION

[See Rule 501]

Rule 509.—The test structure may be located at any place convenient to the applicant subject to the approval of the Industrial Board, where all the necessary facilities for properly conducting the test are provided.

The entire expense of the tests is to be sustained by the applicant.

The test structure shall be of such design that the construction to be tested shall form at least one side of the structure. The ends, roof, and foundations of the structure may be of materials and design that will withstand and confine the fire within the test structure for the required time.

At a height of not less than 2 feet 6 inches nor more than 3 feet above the ground level, a metal grate, properly supported, shall be provided, covering the whole inside area of the building.

In the walls below the grate level, draught openings shall be provided, as many as possible, furnishing openings with an aggregate of not less than 1 square foot for every 10 square feet of grate surface. Means for temporarily closing these openings shall be provided.

Immediately above the grate level, in one of the end walls of the structure, a firing door 3 feet 6 inches wide by 5 feet high must be provided.

Flues shall be supplied at each of the corners, and more often for a test structure with more than 250 square feet of grate surface, with sufficient opening to insure a proper draught. In no case shall a flue area be less than 180 square inches.

The size of the test structure will depend on the area of the partition construction to be tested. In no case shall the side wall construction in which the test partition is erected be less than 9 feet 6 inches high, nor less than 14 feet 6 inches long. This entire area must be above the level of the grate bars, and within such dimensions, must not be reinforced or braced in any manner other than is done as an inherent and essential part of the system of construction. The edges may be supported in any manner representing the conditions of support in good practice.

It is understood that the workmanship upon the partitions represents that obtaining in common practice and that the material is of a quality ordinarily used in that method of partition construction. If the proposed construction is approved the standard of workmanship and material is to be maintained in any and all work thereafter produced.

The length of time intervening between the construction of the test wall and the time of the test, in order to allow the material to dry out, may vary with the different makes, and generally will be at the discretion of the applicant, but should not exceed thirty days. Artificial drying may be resorted to.

The construction to be tested shall be subjected for three hours to the continuous heat of a fire, rising in temperature to 1700° F. by the end of the first half hour, and maintained at an average temperature of 1700° F. for the balance of the test; the fuel used being either wood, gas, oil, or other fuel, so introduced as to cause an even distribution of the heat throughout the test structure. When fuel other than wood is used, modifications in the test oven above described may be made subject to the approval of the Industrial Board.

The temperature obtained shall be measured by means of standard pyrometers under the direction of an experienced person. The type of pyrometer is immaterial so long as its accuracy is secured by proper standardization.

The temperature should be measured near the center of the test structure about 6 inches below the roof or ceiling, and also at the center of each partition under test about 7 feet above the grate level. In case the partition under test is more than 15 feet long, additional pyrometers shall be used, symmetrically disposed and not more than 12 feet apart. Temperature readings at each point shall be taken every three minutes, and the average used as the controlling temperature.

At the end of the fire test, a stream of water shall be directed against the construction under test, discharged through a 1½-inch nozzle, under 30 pounds nozzle pressure for two and one-half minutes, the nozzle being held within 2 feet of the firing door and the hose stream being played backward and forward over the entire fire side surface of the partition under test. The actual water pressure obtained shall be accurately determined at the nozzle by means of a nozzle stream Pitot tube with pressure gauge.

The test shall not be regarded as successful unless the following conditions are met: No fire or a considerable volume of smoke shall pass through the partition during the fire test; the partition must safely sustain the pressure of the hose stream; the approval of the construction under test may be withheld if the partitions should warp or bulge to an extent deemed dangerous by the Industrial Board.

It is suggested, although not obligatory, that a chamber be constructed on the unexposed side of the partition under test which will permit of easy access to the person or persons conducting the test, in order to obtain useful data upon radiated heat and facilitate observations upon the passage of fire or smoke.

All tests intended to comply with the above specifications shall be conducted by a competent, disinterested authority approved by the Industrial Board. Reports on all such tests, whether the construction is approved or disapproved, shall be placed on file in the Department of Labor. These reports should state the facts and occurrences, and shall be accompanied with tables, diagrams, illustrations and a log of the test in sufficient detail to give an accurate description of the test specimen, a complete record of the skilled conduct of the test and the effect of the test upon the construction under observation. A list of the professional men in attendance shall accompany each report.

In all cases where the materials or devices are submitted to the Industrial Board by an applicant for approval of the same and are disapproved after test or examination by the Industrial Board, the applicant shall be entitled, upon request, to a copy of the report of such test or examination.

TEST OF FIRE DOORS

[Subject to Rule 502]

Rule 510.—The test structure may be located at any place convenient to the applicant subject to the approval of the Industrial Board, where all the necessary facilities for properly conducting the test are provided.

The test structure shall be of such design that the door construction to be tested shall form the covering of an opening in at least one side wall of the structure. The doors shall be hung or otherwise erected as in practice. The ends, roof and foundations of the structure may be of materials and design that will safely withstand and confine the fire within the test structure for the required time.

The entire expense of the tests is to be sustained by the applicant.

At a height not less than 2 feet 6 inches nor more than 3 feet above the ground level, a metal grate, properly supported, shall be provided, covering the whole inside area of the building.

In the walls below the grate level, draught openings shall be provided, with an aggregate area of not less than one square foot for every ten square feet of grate surface. Means for temporarily closing these openings shall be provided.

Immediately above the grate level, in one of the end walls of the structure, a firing door 3 feet 6 inches by 5 feet high must be provided.

Flues should be supplied at each of the corners, and more often for a test structure with more than 250 square feet of grate surface, with sufficient opening to insure a proper draught. In no case shall a flue area be less than 180 square inches.

It is understood that the workmanship upon the doors and fittings represents that obtaining in common practice and that the material and fittings are of a quality ordinarily used in that method of door construction. If the proposed construction is approved the standard of workmanship, material and fittings is to be maintained in any and all work thereafter produced and constructed.

The size of the test structure will depend on the area of the door construction to be tested. In no case shall the side wall construction in which the test door is erected be less than 9 feet 6 inches high nor less than 14 feet 6 inches long. This entire area must be above the level of the grate bars.

Swinging or sliding doors which lap the edges of the wall shall be installed on the fire side of the wall. Doors which swing and close into rabbets shall open toward the fire. The size of door to be tested shall be not less than 5 feet by 7 feet for the ordinary type of sliding door and for swinging doors the size shall be not less than 3 feet by 7 feet.

The door construction to be tested shall be subjected for one hour to the continuous heat of a fire, rising in temperature to 1700° F. by the end of the first half hour, and maintained at an average temperature of 1700° F. for the balance of the test; the fuel used being either wood, gas, oil, or other fuel, so introduced as to cause an even distribution of the heat throughout the test structure. When fuel other than wood is used, modifications in the test oven above described may be made subject to the approval of the Industrial Board.

It is recommended that the test specimen be equipped with an automatic self-closing device or a fusible link attachment which will effect closure by the action of the temperature in the test structure.

The temperature obtained shall be measured by means of standard pyrometers under the direction of an experienced person. The type of pyrometer is immaterial so long as its accuracy is secured by proper standardization.

The temperature should be measured near the center of the test structure about 6 inches below the roof or ceiling and also at least two points in the wall in which the test door, or doors, are erected at a distance from an edge of the opening not greater than one foot and not less than 4 feet from the grate level. A temperature reading in the door or doors themselves is optional, as well as is the record of the heat conducted through the door or doors. Temperature readings at each point shall be taken every three minutes and the average used as the controlling temperature.

At the end of the fire test, a stream of water shall be directed against the construction under test, discharged through a 1½-inch nozzle, under 30 pounds nozzle pressure for two and one-half minutes, the nozzle being held within 2 feet of the firing door and the hose stream being played backward and forward over the entire fire side surface of the door or doors under test. The actual water pressure obtained shall be accurately determined at the nozzle by means of a nozzle stream Pitot tube with pressure gauge.

The test shall not be regarded as successful unless the following conditions are met: No fire or a considerable volume of smoke shall pass through the door or doors during the first test; the doors must safely sustain the pressure of the hose stream; the approval of the construction under test may be withheld if the door or doors should allow flames to pass about their edges or if they warp or bulge to an extent deemed to be dangerous by the Industrial Board.

It is suggested, although not obligatory, that a chamber be constructed on the unexposed side of the wall in which the door or doors are erected, which will permit of easy access to the person or persons conducting the test, in order to obtain useful data upon radiated heat and facilitate observations upon the passage of fire or smoke.

All tests intended to comply with the above specifications shall be conducted by a competent, disinterested authority approved by the Industrial Board. Reports on all such tests, whether the construction is approved or disapproved, shall be placed on file in the Department of Labor. These reports should state the facts and occurrences, and shall be accompanied with tables, diagrams, illustrations and a log of the test specimen, a complete record of the skilled conduct of the test and the effect of the test upon the construction under observation. A list of the professional men in attendance shall accompany each report.

In all cases where the materials or devices are submitted to the Industrial Board by an applicant for approval of the same and are disapproved after test or examination by the Industrial Board, the applicant shall be entitled, upon request, to a copy of the report of such test or examination.

TEST OF FIREPROOF WINDOWS

[See Rule 503]

Rule 511.—The test will comply in every detail to that required for the acceptance of a fireproof door, except that the window shall be subjected for three-quarters of an hour, instead of one hour, to the continuous heat of a fire, rising in temperature to 1600° F. by the end of the first half-hour and maintained at an average temperature of 1600° F. for the balance of the test. It is understood that the size of wall opening in which the test window is

installed represents that obtaining in common practice, and that the size of the frame and sash to be used, if the test is successful, will not be greater in any dimension than in the test window. Also with the following exceptions in regard to automatic closing:

It is recommended that the test specimen be equipped with an automatic self-closing device or a fusible link attachment which will effect closure by the action of the temperature in the test structure.

The test shall not be regarded as successful unless the following conditions are met:

No fire or a considerable volume of smoke shall pass through the window during the fire test; the window must safely sustain the pressure of the hose stream; the approval of the construction under test may be withheld if the window should allow flames to pass about its edges or if it warps or bulges to an extent deemed dangerous by the Industrial Board.

TEST OF FIRE-RESISTING PARTITIONS

[See Rules 504-506]

Rule 512.—The test will comply in every detail to that required for the acceptance of a fireproof partition except that the wall shall be subjected for one hour instead of three hours to the continuous heat of a fire rising in temperature to 1700° F. by the end of the first half hour and maintained at an average temperature of 1700° F. for the balance of the test.

The water application will be omitted.

TEST OF FIRE DOORS

[Subject to Rule 507]

Rule 513.—The test will comply in every detail to that required for the acceptance of a fire proof door except that the door or doors shall be subjected for one hour to the continuous heat of a fire, rising in temperature to 1700° F. by the end of the first half hour and maintained at an average temperature of 1700° F for the balance of the test. The water application will be omitted.

PENALTIES FOR VIOLATION OF THE LABOR LAW OR INDUSTRIAL CODE

THE PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 444. * Manufacture and sale of mattresses.—Any person who 1. Manufactures, sells, offers for sale or possesses with intent to sell any mattress not properly branded or labeled, as required by the general business law, or

2. Manufactures, sells, offers for sale or possesses with intent to sell any mattress which is falsely branded or labeled, or

3. Uses in the manufacture of mattresses any cotton or other material which has been used as a mattress, pillow or bedding in any public or private hospital, or which has been used by any person having an infectious or contagious disease, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months or by both. [Section 444 added by L. 1913, ch. 503.]

§ 620. Unlawful dealing in convict made goods.—A person who:

1. Sells or exposes for sale convict made goods, wares or merchandise, without a license therefor, or having such license does not transmit to the secretary of state the statement required by article thirteen of the labor law; or,

2. Sells, offers for sale, or has in his possession for sale any such convict made goods, wares or merchandise without the brand, mark or label required by article thirteen of the labor law; or,

3. Removes or defaces or in any way alters such brand, mark or label,

Is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not more than one thousand or less than one hundred dollars, or by imprisonment for not less than ten days or by both such fine and imprisonment.

Compare notes under §§ 190 and 193 of the Labor Law, pp. 113, 114, *ante*.

ARTICLE 120

Labor

Section 1270. Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.

1271. Hours of labor to be required.

1272. Payment of wages.

1274. No fees to be charged for services rendered by free public employment bureaus.

1275. Violations of provisions of labor law; the industrial code; the rules and regulations of the industrial board of the department of labor; orders of the commissioner of labor.

1276. Negligently furnishing insecure scaffolding.

1277. Neglect to complete or plank floors of buildings constructed in cities.

1278. Fraudulent representation in labor organizations.

§ 1270. Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.—A person:

1. Refusing to admit the commissioner of labor, or any person authorized

* Another section, also numbered 444, relating to stock exchanges was added by L. 1913, ch. 477.

by him, to a mine, tunnel or quarry, and to each and every part thereof, for the purpose of examination and inspection; or,

2. Neglecting or refusing to comply with the provisions of article nine of the labor law upon written notice of the commissioner of labor,

Is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days.

§ 1271. Hours of labor to be required.—Any person or corporation:

1. Who, contracting with the state or municipal corporation, shall require more than eight hours' work for a day's labor; or,

2. Who shall require more than ten hours' labor, including one-half hour for dinner, to be performed within twelve consecutive hours, by the employees of a street surface and elevated railway owned or operated by corporations whose main line of travel or routes lie principally within the corporate limits of cities of more than one hundred thousand inhabitants; or,

3. Who shall require the employees of a corporation owning or operating a brickyard to work contrary to the requirements of section five of the labor law; or,

4. Who shall require or permit any employee engaged in or connected with the movement of any train of a corporation operating a line of railroad of thirty miles in length, or over, in whole or in part within this state, to remain on duty more than sixteen consecutive hours; or to require or permit any such employee who has been on duty sixteen consecutive hours to go on duty without having had at least ten hours off duty; or to require or permit any such employee who has been on duty sixteen hours in the aggregate in any twenty-four hour period, to continue on duty or to go on duty without having had at least eight hours off duty within such twenty-four hour period; except when by casualty occurring after such employee has started on his trip, or by unknown casualty occurring before he started on his trip, and except when by accident or unexpected delay of trains scheduled to make connection with the train on which such employee is serving, he is prevented from reaching his terminal;

Is guilty of a misdemeanor, and on conviction therefor shall be punished by a fine of not less than five hundred nor more than one thousand dollars for each offense.

If any contractor with the state or a municipal corporation shall require more than eight hours for a day's labor, upon conviction therefor in addition to such fine, the contract shall be forfeited at the option of the municipal corporation.

Compare §§ 8 to 8a of the Labor Law pp. 9-14, *ante*.

§ 1272. Payment of wages.—A corporation or joint stock association or person carrying on the business thereof, by lease or otherwise, who does not pay the wages of all its employees in accordance with the provisions of the labor law, is guilty of a misdemeanor, and upon conviction therefor, shall be fined not less than one hundred nor more than ten thousand dollars for each offense. An indictment of a person or corporation operating a steam surface railroad for an offense specified in this section may be found and tried in any county within the state in which such railroad ran at the time of such offense. [*As am'd by L. 1909, ch. 205.*]

Compare §§ 9 to 12 of the Labor Law, pp. 14-16, *ante*.

§ 1274. No fees to be charged for services rendered by free public employment bureaus.—A person connected with or employed in a free public employment bureau, who shall charge or receive directly or indirectly, any fee or compensation from any person applying to such bureau for help or employment, is guilty of a misdemeanor.

§ 1275. Violations of provisions of labor law; the industrial code; the rules and regulations of the industrial board of the department of labor; orders of the commissioner of labor.—Any person who violates or does not comply with any provision of the labor law, any provision of the industrial code, any rule or regulation of the industrial board of the department of labor, or any lawful order of the commissioner of labor; and any person who knowingly makes a false statement in or in relation to any application made for an employment certificate as to any matter required by articles six and eleven* of the labor law to appear in any affidavit, record, transcript or certificate therein provided for, is guilty of a misdemeanor and upon conviction shall be punished, except as in this chapter otherwise provided, for a first offense by a fine of not less than twenty nor more than fifty dollars; for a second offense by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third offense by a fine of not less than two hundred and fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment. [*As am'd by L. 1911, ch. 749; L. 1912, ch. 383; and L. 1913, ch. 349.*]

§ 1276. Negligently furnishing insecure scaffolding.—A person or corporation employing or directing another to do or perform any labor in the erection, repairing, altering or painting, any house, building or structure within this state, who knowingly or negligently furnishes or erects or causes to be furnished or erected for the performance of such labor, unsafe, unsuitable or improper scaffolding, hoists, stays, ladders or other mechanical contrivances; or who hinders or obstructs any officer detailed to inspect the same, destroys or defaces any notice posted thereon, or permits the use thereof after the same has been declared unsafe by such officer contrary to the provisions of article two of the labor law, is guilty of a misdemeanor.

Compare §§ 18 and 19 of the Labor Law, pp. 18, 19, *ante*.

§ 1277. Neglect to complete or plank floors of buildings constructed in cities.—A person, constructing a building in a city, as owner or contractor, who violates the provisions of article two of the labor law, relating to the completing or laying of floors, or the planking of such floors or tiers of beams as the work of construction progresses, is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine for each offense of not less than twenty-five nor more than two hundred dollars.

Compare § 20 of the Labor Law, pp. 19, 20, *ante*.

§ 1278. Fraudulent representation in labor organizations.—[See p. 282, *post*.]

* Article eleven here referred to was renumbered article twelve by chapter 145 of the laws of 1913.

MISCELLANEOUS LAWS RELATING TO LABOR

CHILD LABOR

[The employment of children during the school sessions is regulated by Article 23 of the Education Law, printed below. The Education Law also provides for their vocational training; see Industrial Education, p. 261, *post*.

The employment of children in factories is regulated by Article 6, in mines and quarries by Article 9, in stores, hotels, offices, etc., by Article 12, and in the selling of newspapers by Article 15 of the Labor Law, *ante*. Special service of public employment offices for juveniles is required by § 66-j of the Labor Law, p. 34, *ante*.

Article 44 of the Penal Law (§§ 480-494), entitled "Children," contains provisions relative to the employment of children in occupations dangerous to health or morals. Certain of these sections are printed below, pp. 178-181. See further, § 1982 of the Penal Law, p. 253, *post*, prohibiting the employment of minors under 18 as telegraph operators on railroads; and the Liquor Tax Law, § 21, forbidding persons under 21 to traffic in liquors, and § 30-f, forbidding girls and minors under 18 to sell or serve liquors.

As to registration of births, from which evidence of a child's attainment of the legal age of employment is derived, see Public Health Law, § 382.]

EDUCATIONAL RESTRICTIONS

COMPULSORY EDUCATION LAW: ARTICLE 23 OF CHAPTER 16 OF THE CONSOLIDATED LAWS

[Enacted by ch. 140 of Laws of 1910, amending ch. 16 of the Consolidated Laws of 1909]

§ 620. Instruction required.—The instruction required under this article shall be:

1. At a public school in which at least the six common school branches of reading, writing, arithmetic, English language and geography are taught in English.

2. Elsewhere than a public school upon instruction in the same subjects taught in English by a competent teacher.

§ 621. Required attendance upon instruction.—1. Every child within the compulsory school ages, in proper physical and mental condition to attend school, residing in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall regularly attend upon instruction as follows:

- (a) Each child between seven and fourteen years of age shall attend the entire time during which the school attended is in session, which period shall not be less than one hundred and sixty days of actual school.

- (b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, and to whom an employment certificate has not been duly issued under the provisions of the labor law, shall so attend the entire time during which the school attended is in session.

2. Every such child, residing elsewhere than in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall attend upon instruction during the entire time that the school in the district shall be in session as follows:

(a) Each child between eight and fourteen years of age.

(b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service. [*Subd. 2 am'd by L. 1913, ch. 511.*]

3. The provisions of this section are intended to include all blind children, except such as may receive appointments under the provisions of article thirty-eight of this chapter. [*Subd. 3 added by L. 1912, ch. 710.*]

§ 622. When a boy is required to attend evening school.—1. Every boy between fourteen and sixteen years of age, in a city of the first class or a city of the second class in possession of an employment certificate duly issued under the provisions of the labor law, who has not completed such course of study as is required for graduation from the elementary public schools of such city, and who does not hold either a certificate of graduation from the public elementary school or the pre-academic certificate issued by the regents or the certificate of the completion of an elementary course issued by the education department, shall attend the public evening schools of such city, or other evening schools offering an equivalent course of instruction, for not less than six hours each week, for a period of not less than sixteen weeks. [*Subd. 1 am'd by L. 1913, ch. 748.*]

2. When the board of education in a city or district shall have established part-time and continuation schools or courses of instruction for the education of young persons between fourteen and sixteen years of age who are regularly employed in such city or district, said board of education may require the attendance in such schools or on such courses of instruction of any young person in such a city or district who is in possession of an employment certificate duly issued under the provisions of the labor law, who has not completed such courses of study as are required for graduation from the elementary public schools of such city or district, or equivalent courses of study in parochial or other elementary schools, who does not hold either a certificate of graduation from the public elementary school or a pre-academic certificate of the completion of the elementary course issued by the education department, and who is not otherwise receiving instruction approved by the board of education as equivalent to that provided for in the schools and courses of instruction established under the provisions of this act. The required attendance provided for in this paragraph shall be for a total of not less than thirty-six weeks per year, at the rate of not less than four and not more than eight hours per week, and shall be between the hours of eight o'clock in the morning and five o'clock in the afternoon of any working day or days. [*Subd. 2 added by L. 1913, ch. 748.*]

3. The children attending such part-time or continuation schools as required in paragraph two of this section shall be exempt from the attendance on evening schools required in paragraph one of this section. [*Subd. 3 added by L. 1913, ch. 748.*]

§ 623. Instruction elsewhere than at a public school.—If any such child shall so attend upon instruction elsewhere than at a public school, such instruction shall be at least substantially equivalent to the instruction given children of like age at the public school of the city or district in which such child resides; and such attendance shall be for at least as many hours each day thereof as are required of children of like age at public schools; and no

greater total amount of holidays or vacations shall be deducted from such attendance during the period such attendance is required than is allowed in such public school to children of like age. Occasional absences from such attendance, not amounting to irregular attendance in the fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practice of such public school.

§ 624. Duties of persons in parental relation to children.—Every person in parental relation to a child within the compulsory school ages and in proper physical and mental condition to attend school, shall cause such child to attend upon instruction, as follows:

1. In cities and school districts having a population of five thousand or above, every child between seven and sixteen years of age as required by section six hundred and twenty-one of this act unless an employment certificate shall have been duly issued to such child under the provisions of the labor law and he is regularly employed thereunder.

2. Elsewhere than in a city or school district having a population of five thousand or above, every child between eight and sixteen years of age, unless such child shall have received an employment certificate duly issued under the provisions of the labor law and is regularly employed thereunder in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, or unless such child shall have received the school record certificate issued under section six hundred and thirty of this act and is regularly employed elsewhere than in the factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages.

§ 625. Penalty for failure to perform parental duty.—A violation of section six hundred and twenty-four shall be a misdemeanor, punishable for the first offense by a fine not exceeding five dollars, or five days' imprisonment, and for each subsequent offense by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Courts of special session and police magistrates shall, subject to removal as provided in sections fifty-seven and fifty-eight of the Code of Criminal Procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violations of this section within their respective jurisdictions.

§ 626. Unlawful employment of children and penalty therefor.—It shall be unlawful for any person, firm or corporation:

1. To employ any child under fourteen years of age, in any business or service whatever, for any part of the term during which the public schools of the district or city in which the child resides are in session.

2. To employ, elsewhere than in a city of the first class or a city of the second class, in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, any child between fourteen and sixteen years of age who does not at the time of such employment present an employment certificate duly issued under the provisions of the labor law,

* So in original.

or to employ any such child in any other capacity who does not at the time of such employment present a school record certificate as provided in section six hundred and thirty of this chapter.

3. To employ any child between fourteen and sixteen years of age in a city of the first class or a city of the second class who does not, at the time of such employment, present an employment certificate, duly issued under the provisions of the labor law.

§ 627. Employer must display record certificate and evening part-time or continuation school certificate.—The employer of any child between fourteen and sixteen years of age in a city or district shall keep and shall display in the place where such child is employed, the employment certificate and also his evening, part-time or continuation school certificate issued by the school authorities of said city or district or by an authorized representative of such school authorities, certifying that the said child is regularly in attendance at an evening, part-time or continuation school of said city as provided in section six hundred and thirty-one of this chapter. [*As am'd by L. 1913, ch. 748.*]

§ 628. Punishment for unlawful employment of children.—Any person, firm, or corporation, or any officer, manager, superintendent or employee acting therefor, who shall employ any child contrary to the provisions of sections six hundred and twenty-six and six hundred and twenty-seven hereof shall be guilty of a misdemeanor, and the punishment therefor shall be for the first offense a fine of not less than twenty dollars nor more than fifty dollars; for a second and each subsequent offense, a fine of not less than fifty dollars nor more than two hundred dollars. [*As am'd by L. 1913, ch. 748.*]

Constitutionality affirmed in *City of New York v. Chelsea Jute Mills*, 43 Misc. 266.

§ 629. Teachers must keep record of attendance.—An accurate record of the attendance of all children between seven and sixteen years of age shall be kept by the teacher of every school, showing each day by the year, month, day of the month and day of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction any such child shall attend elsewhere than at school, shall keep a like record of such attendance. Such record shall, at all times, be open to the attendance officers or other person duly authorized by the school authorities of the city or district, who may inspect or copy the same; and every such teacher shall fully answer all inquiries lawfully made by such authorities, inspectors, or other persons, and a wilful neglect or refusal so to answer any such inquiry shall be a misdemeanor.

§ 630. School record certificate.—1. A school-record certificate shall contain a statement certifying that a child has regularly attended the public schools, or schools equivalent thereto, or parochial schools, for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application for such school record, and that he is able to read and write simple sentences in the English language and has received during such period instruction in reading, writing, spelling, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions, and has completed the work prescribed for the first six years of the public

elementary school, or school equivalent thereto, or parochial school, from which such school record is issued. Such record shall also give the date of birth and residence of the child, as shown on the school records, and the name of the child's parents, guardian or custodian. [*Subd. 1 am'd by L. 1913, ch. 101.*]

2. A teacher or superintendent to whom application shall be made for a school record certificate required under the provisions of the labor law shall issue a school record certificate to any child who, after due investigation and examination, may be found to be entitled to the same as follows:

a. In a city of the first class by the principal or chief executive of a school.
b. In all other cities and in school districts having a population of five thousand or more and employing a superintendent of schools, by the superintendent of schools only.

c. In all other school districts by the principal teacher of the school.

d. In each city or school district such certificate shall be furnished on demand to a child entitled thereto or to the Board or Commissioner of Health.

§ 631. Evening, part-time or continuation school certificate.—The school authorities in a city or district, or officers designated by them, are hereby required to issue to each child lawfully in attendance at an evening, part-time or continuation school, an evening, part-time or continuation school certificate at least once in each month during the months said evening, part-time or continuation school is in session and at the close of the term of said evening, part-time or continuation school, provided that said child has been in attendance upon said evening school, for not less than six hours each week or upon said part-time or continuation school for not less than four hours each week, for such number of weeks as will, when taken in connection with the number of weeks such evening, part-time or continuation school respectively, shall be in session during the remainder of the current or calendar year, make up a total attendance on the part of said child in said evening school, of not less than six hours per week for a period of not less than sixteen weeks or in said part-time or continuation school, of not less than four hours per week for a period of not less than thirty-six weeks. Such certificate shall state fully the period of time which the child to whom it is issued was in attendance upon such evening, part-time or continuation school. [*As am'd by L. 1913, ch. 748.*]

§ 632. Attendance officers.—1. The school authorities of each city, union free school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove at pleasure one or more attendance officers of such city or district, and shall fix their compensation and may prescribe their duties not inconsistent with this article and make rules and regulations for the performance thereof; and the superintendent of schools shall supervise the enforcement of this article within such city or school district.

2. The town board of each town shall appoint, subject to the written approval of the school commissioner of the district, one or more attendance officers, whose jurisdiction shall extend over all school districts in said town, and which are not by this section otherwise provided for, and shall fix their compensation, which shall be a town charge; and such attendance officers, appointed by said board, shall be removable at the pleasure of the school commissioner in whose commissioner district such town is situated.

§ 633. Arrest of truants.— 1. The attendance officer may arrest without a warrant any child between seven and sixteen years of age who is a truant from instruction upon which he is lawfully required to attend within the city or district of such attendance officer. He shall forthwith deliver the child so arrested to a teacher from whom such child is then a truant, or, in case of habitual and incorrigible truants, shall bring them before a police magistrate for commitment to a truant school as provided in section six hundred and thirty-five.

2. The attendance officer shall promptly report such arrest and the disposition which he makes of such child, to the school authorities of the said city or district where such child is lawfully required to attend upon instruction.

3. A truant officer in the performance of his duties may enter, during business hours, any factory, mercantile or other establishment within the city or school district in which he is appointed and shall be entitled to examine employment certificates or registry of children employed therein on demand.

§ 634. Interference with attendance officer.— Any person interfering with an attendance officer in the lawful discharge of his duties and any person owning or operating a factory, mercantile or other establishment who shall refuse on demand to exhibit to such attendance officer the registry of the children employed or the employment certificate of such children shall be guilty of a misdemeanor.

§ 635. Truant schools.— 1. The school authorities of any city or school district may establish schools, or set apart separate rooms in public school buildings, for children between seven and sixteen years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a truant school; but no person convicted of crimes or misdemeanors, other than truancy, shall be committed thereto.

2. School authorities may provide for the confinement, maintenance and instruction of such truants in such schools; and they, or the superintendent of schools in any city or school district, may, after reasonable notice to such child and the persons in parental relation to such child, and an opportunity for them to be heard, and with the consent in writing of the persons in parental relation to such child, order such child to attend such school, or to be confined and maintained therein, under such rules and regulations as such authorities may prescribe, for a period not exceeding two years; but in no case shall a child be so confined after he is sixteen years of age.

3. Such authorities may order such a child to be confined and maintained during such period in any private school, orphans' home or similar institution controlled by persons of the same religious faith as the persons in parental relation to such child, and which is willing and able to receive, confine and maintain such child, upon such terms as to compensation as may be agreed upon between such authorities and such private school, orphans' home or similar institution.

4. If the person in parental relation to such child shall not consent to either of such orders said person shall be proceeded against in court under

section six hundred and twenty-five of this chapter by the school authorities or such officer as they may designate. In case the person in parental relation to such child establishes to the satisfaction of the court that such child is beyond his control such child shall be proceeded against as a disorderly person, and upon conviction thereof, if the child was lawfully required to attend a public school, the child shall be sentenced to be confined and maintained in such truant school for a period not exceeding two years; or if such child was lawfully required to attend upon instruction otherwise than at a public school, the child may be sentenced to be confined and maintained for a period not exceeding two years in such private school, orphans' home or other similar institutions, if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. Such confinement shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of such child to the institution elsewhere, upon which he may be lawfully required to attend.

5. The authorities committing any such child, and in cities and districts having a superintendent of schools such superintendent shall have authority, in his discretion, to parole at any time any truant so committed by them.

6. Every child lawfully suspended from attendance upon instruction for more than one week, shall be required to attend such truant school during the period of such suspension.

7. The school authorities of any city or school district, not having a truant school, may contract with any other city or district having a truant school, for the confinement, maintenance and instruction therein of children whom such school authorities might require to attend a truant school, if there were one in their own city or district.

8. Industrial training shall be furnished in every such truant school.

9. The expense attending the commitment and cost of maintenance of any truant residing in any city, or district, employing a superintendent of schools shall be a charge against such city, or district, and in all other cases shall be a county charge.

§ 636. Enforcement of law and withholding the state moneys by commissioner of education.—1. The commissioner of education shall supervise the enforcement of this law and he may withhold one-half of all public school moneys from any city or district, which, in his judgment, wilfully omits and refuses to enforce the provisions of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, continue

2. If the provisions of this article are complied with at any time within one year from the date on which said moneys were withheld, the moneys so withheld shall be paid over by said commissioner of education to such district or city, otherwise forfeited to the state.

CERTAIN EMPLOYMENTS OF CHILDREN PROHIBITED

PENAL LAW, CHAPTER 40 OF CONSOLIDATED LAWS

§ 483. Endangering life or health of child.—A person who:

1. Wilfully causes or permits the life or limb of any child actually or apparently under the age of sixteen years to be endangered, or its health to be injured, or its morals to become depraved; or,

2. Wilfully causes or permits such child to be placed in such a situation or to engage in such an occupation that its life or limb is endangered, or its health is likely to be injured, or its morals likely to be impaired,

Is guilty of a misdemeanor.

[Subd. 3. Contributing to juvenile delinquency. Repealed by L. 1910, ch. 609, § 494, relative to the same subject, added by L. 1910, ch. 699.]

§ 485. Certain employment of children prohibited.—A person who employs or causes to be employed, or who exhibits, uses, or has in custody, or trains for the purpose of the exhibition, use or employment of, any child actually or apparently under the age of sixteen years; or who having the care, custody or control of such a child as parent, relative, guardian, employer or otherwise, sells, lets out, gives away, so trains, or in any way procures or consents to the employment, or to such training, or use, or exhibition of such child; or who neglects or refuses to restrain such child from such training, or from engaging or acting:

1. As a rope or wire walker, gymnast, wrestler, contortionist, rider or acrobat; or upon any bicycle or similar mechanical vehicle or contrivance; or,

2. In begging or receiving or soliciting alms in any manner or under any pretense, or in any mendicant occupation; or in gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or in peddling; or,

3. In singing; or dancing; or playing upon a musical instrument; or in a theatrical exhibition; or in any wandering occupation; or,

4. In any illegal, indecent or immoral exhibition or practice; or in the exhibition of any such child when insane, idiotic, or when presenting the appearance of any deformity or unnatural physical formation or development; or,

5. In any practice or exhibition or place dangerous or injurious to the life, limb, health or morals of the child,

Is guilty of a misdemeanor.

But this section does not apply to the employment of any child as a singer or musician in a church, school or academy; or in teaching or learning the science or practice of music; or as a musician in any concert or in a theatrical exhibition, with the written consent of the mayor of the city, or the president of the board of trustees of the village where such concert or exhibition takes place. Such consent shall not be given unless forty-eight hours previous notice of the application shall have been served in writing upon the society mentioned in section four hundred and ninety-one of this chapter, if there be one within the county, and a hearing had thereon if requested, and shall be revocable at the will of the authority giving it. It shall specify the name of the child, its age, the names and residence of its parents or guardians, the nature, time, duration and number of performances permitted, together with the place and character of the exhibition. But no such consent shall be deemed to authorize any violation of the first, second, fourth or fifth subdivisions of this section.

Not an unconstitutional infringement of the parents' rights or the rights of the child:
8 N. Y. Cr. 383; *People v. Ewer*, 141 N. Y. 129.

§ 486. Prohibited acts; destitute children.— Any child actually or apparently under the age of sixteen years who is found:

1. Begging or receiving or soliciting alms, in any manner or under any pretense; or gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or,

5. Coming within any of the descriptions of children mentioned in section four hundred and eighty-five,

Must be arrested and brought before a proper court or magistrate, who may commit the child to any incorporated charitable reformatory, or other institution, and when practicable, to such as is governed by persons of the same religious faith as the parents of the child, or may make any disposition of the child such as now is, or hereafter may be authorized in the cases of vagrants, truants, paupers or disorderly persons, but such commitment shall, so far as practicable, be made to such charitable or reformatory institutions.

If it shall appear to the board of managers, trustees or other officers in charge of said incorporated charitable, reformatory or other institution to which any such child has been so committed that said child be incorrigible and that his or her presence therein is seriously detrimental to the welfare of the institution and other children therein, an application may be made to the court or magistrate who committed the said child to said institution, or to a justice of the supreme court in the judicial district in which said institution is located, for an order transferring said child to another incorporated charitable, reformatory or other institution, governed or controlled by persons of the same religious faith as the parents of the said child, when practicable, said institution or reformatory to be one designated by the state board of charities for the receipt and detention of such incorrigible children. Such application shall be by petition signed by the officer or the person in charge of such institution and shall state the causes for seeking such transfer, and due notice of such application with a copy of the petition shall be served personally or by mail at least eight days before the hearing, on the parents or guardian of said child and the officer of the locality would be chargeable for the support of such child so transferred, and upon the hearing of said petition such court, magistrate or justice may grant such order of transfer if it appears to his satisfaction that the facts alleged are true and that such transfer should be made; and any child so transferred shall be confined in such institution to which such transfer shall be made with the same force and effect as the confinement in the institution in the first instance and under the same terms and conditions. [*Subd. 5 am'd by L. 1912, ch. 169.*]

§ 488. Sending messenger boys to certain places.— A corporation or person employing messenger boys who:

1. Knowingly places or permits to remain in a disorderly house, or in an unlicensed saloon, inn, tavern or other unlicensed place where malt or spirituous liquors or wines are sold, any instrument or device by which communication may be had between such disorderly house, saloon, inn, tavern or unlicensed place, and any office or place of business of such corporation or person; or,

2. Knowingly sends or permits any person to send any messenger boy to any disorderly house, unlicensed saloon, inn, tavern, or other unlicensed place, where malt or spirituous liquors or wines are sold, on any errand or business whatsoever except to deliver telegrams at the door of such house,

Is guilty of a misdemeanor, and incurs a penalty of fifty dollars to be recovered by the district attorney.

Compare § 161-a of the Labor Law, p. 104, *ante*. Section 1141, subd. 3, of the Penal Law prohibits the hiring, employing, using or permitting of any minor or child to sell or distribute obscene prints and articles.

TAKING APPRENTICE WITHOUT GUARDIAN'S CONSENT

§ 493. Taking apprentice without consent of guardian.—A person who takes an apprentice without having first obtained the consent of his legal guardian or unless a written agreement has been entered into as prescribed by law, is guilty of a misdemeanor.

For the law regulating apprenticeship, see p. —, *post*.

PAYMENT OF WAGES TO MINORS

THE DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS

§ 72. Payment of wages to minor; when valid.—Where a minor is in the employment of a person other than his parent or guardian, payment to such minor of his wages is valid, unless such parent or guardian notify the employer in writing, within thirty days after the commencement of such service, that such wages are claimed by such parent or guardian, but whenever such notice is given at any time payments to the minor shall not be valid for services rendered thereafter.

HOURS OF LABOR*

DRUG CLERKS

PUBLIC HEALTH LAW, CHAPTER 45 OF THE CONSOLIDATED LAWS

§ 236. Working hours and sleeping apartments.—No apprentice or employee in any pharmacy or drug store shall be required or permitted to work more than seventy hours a week. Nothing in this section prohibits working six hours overtime any week for the purpose of making a shorter succeeding week, provided, however, that the aggregate number of hours in any such two weeks shall not exceed one hundred and thirty-two hours. The hours shall be so arranged that an employee shall be entitled to and shall receive at least one afternoon and evening off in each week and in addition thereto shall receive one full day off in two consecutive weeks. No proprietor of any pharmacy or drug store shall require any clerk to sleep in any room or apartment in or connected with such store that does not comply with the sanitary regulations of the local board of health. The provisions of this section alone regulate working hours and sleeping apartments in pharmacies or drug stores. [As am'd by L. 1910, ch. 422; L. 1911, ch. 630; and L. 1914, ch. 514.]

The section excludes the operation of the "Day of Rest Law" (Labor Law, § 8-a) and other statutes. It applies to all drug store employees, including clerks at soda fountains and cigar stands: Opinion of Attorney-General, May 5, 1914. An exception might occur relative to a "superintendent or foreman in charge": Opinion of Attorney-General, March 28, 1914.

§ 240. Revocation of license; misdemeanors; violations and penalties.—

The wilful and repeated violation of any of the provisions of this article or the rules is sufficient cause for the revocation of a license or certificate. The license or certificate revoked shall on formal notice be delivered immediately to the board.

Misdemeanors. It is a misdemeanor for

9. Any proprietor of a pharmacy or drug store to require more than seventy working hours a week in other arrangement than that permitted by section two hundred and thirty-six; and for any proprietor of a pharmacy or drug store to violate the provisions of the same section in regard to sleeping apartments. [Subd. 9 am'd by L. 1910, ch. 422; and L. 1911, ch. 630.]

PUBLIC HOLIDAYS

GENERAL CONSTRUCTION LAW, CHAPTER 22 OF THE CONSOLIDATED LAWS

§ 24. Holidays; half-holiday.—The term holiday includes the following days in each year: The first day of January, known as New Year's day; the twelfth day of February, known as Lincoln's birthday; the twenty-second day of February, known as Washington's birthday; the thirtieth day of May, known as Memorial day; the fourth day of July, known as Independence day;

* Most of the legal restrictions upon the hours of labor are to be found in the Labor Law, articles 1, 6, 8 and 12, *ante*. See also pp. 227 237, *post*.

the first Monday of September, known as Labor day; the twelfth day of October, known as Columbus day, and the twenty-fifth day of December, known as Christmas day, and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general thanksgiving, general fasting and prayer, or other general religious observances. The term half-holiday includes the period from noon to midnight of each Saturday which is not a holiday. [*As am'd by L. 1909, ch. 112.*]

SUNDAY LABOR *

ARTICLE 192 OF PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 2143. Labor prohibited on Sunday.—All labor on Sunday is prohibited, excepting the works of necessity and charity. In works of necessity or charity is included whatever is needful during the day for the good order, health or comfort of the community.

§ 2144. Persons observing another day as a Sabbath.—It is a sufficient defense to a prosecution for work or labor on the first day of the week that the defendant uniformly keeps another day of the week as holy time, and does not labor on that day, and that the labor complained of was done in such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.

§ 2146. Trades, manufactures, and mechanical employments prohibited on Sunday.—All trades, manufactures, agricultural or mechanical employments upon the first day of the week are prohibited, except that when the same are works of necessity they may be performed on that day in their usual and orderly manner, so as not to interfere with the repose and religious liberty of the community.

§ 2147. Public traffic on Sunday.—All manner of public selling or offering for sale of any property upon Sunday is prohibited, except as follows:

1. Articles of food may be sold, served, supplied and delivered at any time before ten o'clock in the morning;
2. Meals may be sold to be eaten on the premises where sold at any time of the day;
3. Caterers may serve meals to their patrons at any time of the day;
4. Prepared tobacco, milk, eggs, ice, soda-water, fruit, flowers, confectionery, newspapers, drugs, medicines and surgical instruments, may be sold in places other than a room where spirituous or malt liquors or wines are kept or offered for sale and may be delivered at any time of the day;
5. Delicatessen dealers may sell, supply, serve and deliver cooked and prepared foods, between the hours of four o'clock in the afternoon and half past seven o'clock in the evening, in addition to the time provided for in subdivision one hereof.

The provisions of this section, however, shall not be construed to allow or permit the public sale or exposing for sale or delivery of uncooked flesh foods, or meats, fresh or salt, at any hour or time of the day. Delicatessen dealers shall not be considered as caterers within subdivision three hereof. [*Section 2147 am'd and subdivided by L. 1913, ch. 346.*]

* Compare the "one day of rest in seven" law in § 8-a of the Labor Law, p. 13, ante.

The prohibition of the sale of uncooked meat at any hour on Sunday is constitutional: *People ex rel. Woodin v. Hagan*, 86 Misc. 849.

§ 2153. **Barbering on Sunday.**—Any person who carries on or engages in the business of shaving, hair cutting or other work of a barber on the first day of the week, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five dollars; and upon a second conviction for a like offense shall be fined not less than ten dollars and not more than twenty-five dollars, or be imprisoned in the county jail for a period of not less than ten days, nor more than twenty-five days, or be punishable by both such fine and such imprisonment at the discretion of the court or magistrate; provided, that in the village of Saratoga Springs, from the fifteenth day of June to the fifteenth day of September, inclusive, and in the city of New York throughout the year, barber shops or other places where a barber is engaged in shaving, hair cutting or other work of a barber, may be kept open, and the work of a barber may be performed therein until one o'clock of the afternoon of the first day of the week.

Held to be constitutional: *People v. Haynor*, 149 N. Y. 193 (1896).

VACATIONS OF PUBLIC EMPLOYEES

ARTICLE 4 OF THE PUBLIC OFFICERS LAW, CHAPTER 47 OF THE CONSOLIDATED LAWS

§ 71. **Vacations for employees of the state and the several civil subdivisions thereof.**—The executive officers of every public department, bureau, commission, or board of the state and of each county, city or other civil division thereof are authorized and empowered to grant to every employee under their supervision, who shall have been in such employ for at least one year, a vacation of not less than two weeks in each year, and for such further period of time as in the opinion and judgment of the executive officers, the duties, position, length of service and other circumstances may warrant, at such time as the executive officers may fix and during such vacation the said employee shall be allowed the same compensation as if actually employed. [*Added by L. 1910, ch. 680.*]

TITLE 3 OF CHAPTER 23 OF THE GREATER NEW YORK CHARTER

§ 1567. The executive heads of the various departments are authorized and empowered to grant to every employee of the city of New York, or of any department or bureau thereof, and of the department of education, a vacation of not less than two weeks in each year and for such further period of time as the duties, length of service and other qualifications of an employee may warrant, at such time as the executive head of the department or any officer having supervision over said employee may fix, and for such time they shall be allowed the same compensation as if actually employed, except that no such vacation shall be granted to per diem employees for longer than two weeks and only during the months of June, July, August and September. The provision, however, restricting vacation periods to the months of June, July, August and September shall not apply to the department of parks. [*Added by L. 1909, ch. 559; am'd by L. 1910, ch. 679; L. 1913, ch. 121; and L. 1914, ch. 458.*]

The granting of vacations under this section is permissive, not mandatory: *People ex rel. Denery v. Drummond*, in Supreme Court in New York City, Aug., 1910.

DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES
SECURITY AND PROTECTION OF THE LIVES, HEALTH OR SAFETY OF
EMPLOYEES; COMPENSATION FOR INJURIES OR DEATH

ARTICLE I OF THE CONSTITUTION

§ 19. Nothing contained in this constitution shall be construed to limit the power of the legislature to enact laws for the protection of the lives, health, or safety of employees; or for the payment, either by employers, or by employers and employees or otherwise, either directly or through a state or other system of insurance or otherwise, of compensation for injuries to employees or for death of employees resulting from such injuries without regard to fault as a cause thereof, except where the injury is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty; or for the adjustment, determination and settlement, with or without trial by jury, of issues which may arise under such legislation; or to provide that the right of such compensation, and the remedy therefor shall be exclusive of all other rights and remedies for injuries to employees or for death resulting from such injuries; or to provide that the amount of such compensation for death shall not exceed a fixed or determinable sum; provided that all moneys paid by an employer to his employees or their legal representatives, by reason of the enactment of any of the laws herein authorized, shall be held to be a proper charge in the cost of operating the business of the employer. *[Section 19 adopted Nov. 4, 1913; in effect Jan. 1, 1914.]*

WORKMEN'S COMPENSATION LAW

[Chapter 816 of the Laws of 1913, as re-enacted and amended by chapter 41 of the Laws of 1914, constituting chapter 67 of the Consolidated Laws, as amended.]

- Article 1. Short title, application, definitions (§§ 1-3).
2. Compensation (§§ 10-34).
3. Security for compensation (§§ 50-54).
4. State workmen's compensation commission (§§ 60-76).
5. State insurance fund (§§ 90-105).
6. Miscellaneous provisions (§§ 110-119).
7. Laws repealed; when to take effect (§§ 130-131).

ARTICLE 1

SHORT TITLE; APPLICATION; DEFINITIONS

- Section 1. Short title.
2. Application.
3. Definitions.

Section 1. Short title.—This chapter shall be known as the "workmen's compensation law."

§ 2. Application.— Compensation provided for in this chapter shall be payable for injuries sustained or death incurred by employees engaged in the following hazardous employments: *

Group 1. The operation, including construction and repair, of railways operated by steam, electric or other motive power, street railways, and incline railways, but not their construction when constructed by any person other than the company which owns or operates the railway, including work of express, sleeping, parlor and dining car employees on railway trains.

Group 2. Construction and operation of railways not included in group one.

Group 3. The operation, including construction and repair, of car shops, machine shops, steam and power plants, and other works for the purposes of any such railway, or used or to be used in connection with it when operated, constructed or repaired by the company which owns or operates the railway.

Group 4. The operation, including construction and repair of car shops, machine shops, steam and power plants, not included in group three.

Group 5. The operation, including construction and repair, of telephone lines and wires for the purposes of the business of a telephone company, or used or to be used in connection with its business, when constructed or operated by the company.

Group 6. The operation, including construction and repair, of telegraph lines and wires for the purposes of the business of a telegraph company, or used or to be used in connection with its business, when constructed or operated by the company.

Group 7. Construction of telegraph and telephone lines not included in groups five and six.

Group 8. The operation, within or without the state, including repair, of vessels other than vessels of other states or countries used in interstate or foreign commerce, when operated or repaired by the company.

Group 9. Shipbuilding, including construction and repair in a ship-yard or elsewhere, not included in group eight.

Group 10. Longshore work, including the loading or unloading of cargoes or parts of cargoes of grain, coal, ore, freight, general merchandise, lumber or other products or materials, or moving or handling the same on any dock, platform or place, or in any warehouse or other place of storage.

Group 11. Dredging, subaqueous or caisson construction, and pile driving.

Group 12. Construction, installation or operation of electric light and electric power lines, dynamos, or appliances, and power transmission lines.

Group 13. Paving; sewer and subway construction, work under compressed air, excavation, tunneling and shaft sinking, well digging, laying and repair of underground pipes, cables and wires, not included in other groups.

Group 14. Lumbering; logging, river-driving, rafting, booming, saw mills, shingle mills, lath mills; manufacture of veneer and of excelsior; manufacture of staves, spokes, or headings.

Group 15. Pulp and paper mills.

Group 16. Manufacture of furniture, interior woodwork, organs, pianos, piano actions, canoes, small boats, coffins, wicker and rattan ware; upholstering; manufacture of mattresses or bed springs.

Group 17. Planing mills, sash and door factories, manufacture of wooden and corrugated paper boxes, cheese boxes, mouldings, window and door

* Compare definitions of "employer," "employee" and "employment," § 3, p. 188, *post*.

screens, window shades, carpet sweepers, wooden toys, articles and wares or baskets.

Group 18. Mining; reduction of ores and smelting; preparation of metals or minerals.

Group 19. Quarries; sand, shale, clay or gravel pits, lime kilns; manufacture of brick, tile, terra-cotta, fire-proofing, or paving blocks, manufacture of calcium carbide, cement, asphalt or paving material.

Group 20. Manufacture of glass, glass products, glassware, porcelain or pottery.

Group 21. Iron, steel or metal foundries; rolling mills; manufacture of castings, forgings, heavy engines, locomotives, machinery, safes, anchors, cables, rails, shafting, wires, tubing, pipes, sheet metal, boilers, furnaces, stoves, structural steel, iron or metal.

Group 22. Operation and repair of stationary engines and boilers, not included in other groups.

Group 23. Manufacture of small castings or forgings, metal wares, instruments, utensils and articles, hardware, nails, wire goods, screens, bolts, metal beds, sanitary, water, gas or electric fixtures, light machines, typewriters, cash registers, adding machines, carriage mountings, bicycles, metal toys, tools, cutlery, instruments, photographic cameras and supplies, sheet metal products, buttons.

Group 24. Manufacture of agricultural implements, threshing machines, traction engines, wagons, carriages, sleighs, vehicles, automobiles, motor trucks, toy wagons, sleighs or baby carriages.

Group 25. Manufacture of explosives and dangerous chemicals, corrosive acids or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, artificial ice, gun powder or ammunition.

Group 26. Manufacture of paint, color, varnish, oil, japans, turpentine, printing ink, printers' rollers, tar, tarred, pitched or asphalted paper.

Group 27. Distilleries, breweries; manufacture of spirituous or malt liquors, alcohol, wine, mineral water or soda waters.

Group 28. Manufacture of drugs and chemicals, not specified in group twenty-five, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, non-corrosive acids or chemical preparations, fertilizers, including garbage disposal plants; shoe blacking or polish.

Group 29. Milling; manufacture of cereals or cattle foods, warehousing; storage; operation of grain elevators.

Group 30. Packing houses, abattoirs, manufacture or preparation of meats or meat products or glue.

Group 31. Tanneries.

Group 32. Manufacture of leather goods and products, belting, saddlery, harness, trunks, valises, boots, shoes, gloves, umbrellas, rubber goods, rubber shoes, tubing, tires or hose.

Group 33. Canning or preparation of fruit, vegetables, fish or food stuffs; pickle factories and sugar refineries.

Group 34. Bakeries, including manufacture of crackers and biscuits, manufacture of confectionery, spices or condiments.

Group 35. Manufacture of tobacco, cigars, cigarettes or tobacco products.

Group 36. Manufacture of cordage, ropes, fibre, brooms or brushes; manilla or hemp products.

Group 37. Flax mills; manufacture of textiles or fabrics, spinning, weaving and knitting manufactories; manufacture of yarn, thread, hosiery, cloth, blankets, carpets, canvas, bags, shoddy or felt.

Group 38. Manufacture of men's or women's clothing, white wear, shirts, collars, corsets, hats, caps, furs or robes.

Group 39. Power laundries; dyeing, cleaning or bleaching.

Group 40. Printing, photo-engraving, stereotyping, electrotyping, lithographing, embossing; manufacture of stationery, paper, cardboard boxes, bags, or wall-paper; and book-binding.

Group 41. The operation, otherwise than on tracks, on streets, highways, or elsewhere of cars, trucks, wagons or other vehicles, and rollers and engines, propelled by steam, gas, gasoline, electric, mechanical or other power or drawn by horses or mules.

Group 42. Stone cutting or dressing; marble works; manufacture of artificial stone; steel building and bridge construction; installation of elevators, fire escapes, boilers, engines or heavy machinery; brick-laying, tile-laying, mason work, stone-setting, concrete work, plastering; and manufacture of concrete blocks; structural carpentry; painting, decorating or renovating; sheet metal work; roofing; construction, repair and demolition of buildings and bridges; plumbing, sanitary or heating engineering; installation and covering of pipes or boilers.

§ 3. Definitions.—As used in this chapter, 1. "Hazardous employment" means a work or occupation described in section two of this chapter.

2. "Commission" means the state workmen's compensation commission, as constituted by this chapter.

3. "Employer," except when otherwise expressly stated, means a person, partnership, association, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association or corporation, employing workmen in hazardous employments including the state and a municipal corporation or other political subdivision thereof. [Subd. 3 am'd by L. 1914, ch. 316.]

The Workmen's Compensation Law applies to such public employees only as are engaged in the hazardous occupations enumerated in § 2. Its application to public employees is further narrowed well nigh to the vanishing point by the definition of "employment" in subdivision 5 of this section. "There are not many occupations carried on by the State, its municipalities and political subdivisions, for pecuniary gain": Opinion of Attorney-General, June 9, 1914.

4. "Employee" means a person who is engaged in a hazardous employment in the service of an employer carrying on or conducting the same upon the premises or at the plant, or in the course of his employment away from the plant of his employer; and shall not include farm laborers or domestic servants.

For distinction between an employee and an independent contractor see decision of the Workmen's Compensation Commission in *Rheinwald v. Builders Brick and Supply Co.*, State Department Reports, Vol. 1, No. 3, p. 115. An employee accidentally injured without the State is entitled to compensation: Decision of commission in *Valentine v. Smith-Angevine Company & Aetna Life Insurance Company*, State Department Reports, Vol. 1, No. 8, p. 77.

5. "Employment" includes employment only in a trade, business or occupation carried on by the employer for pecuniary gain.

6. "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter, and includes funeral benefits provided therein.

7. "Injury" and "personal injury" mean only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally and unavoidably result therefrom.

8. "Death" when mentioned as a basis for the right to compensation means only death resulting from such injury.

9. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including the reasonable value of board, rent, housing, lodging or similar advantage received from the employer.

10. "State fund" means the state insurance fund provided for in article five of this chapter.

11. "Child" shall include a posthumous child and a child legally adopted prior to the injury of the employee.

12. "Insurance carrier" shall include the state fund, stock corporations or mutual associations with which employers have insured, and employers permitted to pay compensation directly under the provisions of subdivision three of section fifty.

ARTICLE 2

COMPENSATION

Section 10. Liability for compensation.

11. Alternative remedy.
12. Compensation not allowed for first two weeks.
13. Treatment and care of injured employees.
14. Weekly wages basis of compensation.
15. Schedule in case of disability.
16. Death benefits.
17. Aliens.
18. Notice of injury.
19. Medical examination.
20. Determination of claims for compensation.
21. Presumptions.
22. Modification of award.
23. Appeals from the commission.
24. Costs and fees.
25. Compensation, how payable.
26. Enforcement of payment in default.
27. Depositing future payments.
28. Limitation of right to compensation.
29. Subrogation to remedies of employee.
30. Revenues or benefits from other sources not to affect compensation.
31. Agreement for contribution by employee void.
32. Waiver agreements void.
33. Assignments; exemptions.
34. Preferences.

§ 10. Liability for compensation.—Every employer subject to the provisions of this chapter shall pay or provide as required by this chapter compensation according to the schedules of this article for the disability or death of his employee resulting from an accidental personal injury sustained by the employee arising out of and in the course of his employment, without

regard to fault as a cause of such injury, except where the injury is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty. Where the injury is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty, neither the injured employee nor any dependent of such employee shall receive compensation under this chapter.

§ 11. **Alternative remedy.**—The liability prescribed by the last preceding section shall be exclusive, except that if an employer fail to secure the payment of compensation for his injured employees and their dependents as provided in section fifty of this chapter, an injured employee, or his legal representative in case death results from the injury, may, at his option, elect to claim compensation under this chapter, or to maintain an action in the courts for damages on account of such injury; and in such an action it shall not be necessary to plead or prove freedom from contributory negligence nor may the defendant plead as a defense that the injury was caused by the negligence of a fellow servant nor that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee. [*Section 11 am'd by L. 1914, ch. 316.*]

For the General Employers' Liability Law, see article 14 of the Labor Law, p. 115, *ante*. See also §§ 29 and 53 of the Workmen's Compensation Law, pp. 197, 199; Liability of Railway Companies, p. 211; Damages for Injuries Causing Death, p. 212; and Criminal Liability for Negligence, p. 212, *post*.

§ 12. **Compensation not allowed for first two weeks.**—No compensation shall be allowed for the first fourteen days of disability, except the benefits provided for in section thirteen of this chapter.

§ 13. **Treatment and care of injured employees.**—The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicines, crutches and apparatus as may be required or be requested by the employee, during sixty days after the injury. If the employer fail to provide the same, the injured employee may do so at the expense of the employer. The employee shall not be entitled to recover any amount expended by him for such treatment or services unless he shall have requested the employer to furnish the same and the employer shall have refused or neglected to do so. All fees and other charges for such treatment and services shall be subject to regulation by the commission as provided in section twenty-four of this chapter, and shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living.

§ 14. **Weekly wages basis of compensation.**—Except as otherwise provided in this chapter, the average weekly wages of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation or death benefits, and shall be determined as follows:

1. If the injured employee shall have worked in the employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he shall have earned in such employment during the days when so employed;

2. If the injured employee shall not have worked in such employment during substantially the whole of such year, his average annual earnings shall consist of three hundred times the average daily wage or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or in a similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed;

3. If either of the foregoing methods of arriving at the annual average earnings of an injured employee cannot reasonably and fairly be applied, such annual earnings shall be such sum as, having regard to the previous earnings of the injured employee and of other employees of the same or most similar class, working in the same or most similar employment in the same or neighboring locality, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the accident;

4. The average weekly wages of an employee shall be one-fifty-second part of his average annual earnings;

5. If it be established that the injured employee was a minor when injured, and that under normal conditions his wages would be expected to increase, the fact may be considered in arriving at his average weekly wages.

§ 15. **Schedule in case of disability.**—The following schedule of compensation is hereby established:

1. **Total permanent disability.** In case of total disability adjudged to be permanent sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts.

2. **Temporary total disability.** In case of temporary total disability, sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of three thousand five hundred dollars, except as otherwise provided in this chapter.

3. **Permanent partial disability.** In case of disability partial in character but permanent in quality the compensation shall be sixty-six and two-thirds per centum of the average weekly wages and shall be paid to the employee for the period named in the schedule as follows:

Thumb. For the loss of a thumb, sixty weeks.

First finger. For the loss of a first finger, commonly called index finger, forty-six weeks.

Second finger. For the loss of a second finger, thirty weeks.

Third finger. For the loss of a third finger, twenty-five weeks.

Fourth finger. For the loss of a fourth finger, commonly called the little finger, fifteen weeks.

Phalange of thumb or finger. The loss of the first phalange of the thumb or finger shall be considered to be equal to the loss of one-half of such thumb or finger, and compensation shall be one-half of the amount above specified. The loss of more than one phalange shall be considered as the loss of the entire thumb or finger; provided, however, that in no case shall the amount

received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Great toe. For the loss of a great toe, thirty-eight weeks.

Other toes. For the loss of one of the toes other than the great toe, sixteen weeks.

Phalange of toe. The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of said toe, and the compensation shall be one-half of the amount specified. The loss of more than one phalange shall be considered as the loss of the entire toe.

Hand. The loss of a hand, two hundred and forty-four weeks.

Arm. For the loss of an arm, three hundred and twelve weeks.

Foot. For the loss of a foot, two hundred and five weeks.

Leg. For the loss of a leg, two hundred and eighty-eight weeks.

Eye. For the loss of an eye, one hundred and twenty-eight weeks.

Loss of use. Permanent loss of the use of a hand, arm, foot, leg or eye shall be considered as the equivalent of the loss of such hand, arm, foot, leg or eye.

Amputations. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of the leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation, except the benefits provided in section thirteen of this chapter.

Other cases. In all other cases in this class of disability, the compensation shall be sixty-six and two-thirds per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability, but subject to reconsideration of the degree of such impairment by the commission on its own motion or upon application of any party in interest.

4. Temporary partial disability. In case of temporary partial disability, except the particular cases mentioned in subdivision three of this section, an injured employee shall receive sixty-six and two-thirds per centum of the difference between his average weekly wages and his wage earning capacity thereafter in the same employment or otherwise during the continuance of such partial disability, but not in excess of three thousand five hundred dollars, except as otherwise provided in this chapter.

5. Limitation. The compensation payment under subdivisions one, two and four and under subdivision three except in case of the loss of a hand, arm, foot, leg or eye, shall not exceed fifteen dollars per week nor be less than five dollars per week; the compensation payment under subdivision three in case of the loss of a hand, arm, foot, leg or eye, shall not exceed twenty dollars per week nor be less than five dollars a week; provided, however, that if the employee's wages at the time of injury are less than five dollars per week he shall receive his full weekly wages.

6. Previous disability. The fact that an employee has suffered previous disability or received compensation therefor shall not preclude him from compensation for a later injury nor preclude compensation for death resulting

therefrom; but in determining compensation for the later injury or death his average weekly wages shall be such sum as will reasonably represent his earning capacity at the time of the later injury.

§ 16. *Death benefits.*—If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

1. Reasonable funeral expenses not exceeding one hundred dollars;

2. If there be a surviving wife (or dependent husband) and no child of the * deceased under the age of eighteen years, to such wife (or dependent husband) thirty per centum of the average wages of the deceased during widowhood (or dependent widowhood) with two years' compensation in one sum, upon remarriage; and if there be surviving child or children of the deceased under the age of eighteen years, the additional amount of ten per centum of such wages for each such child until of the age of eighteen years; in case of the subsequent death of such surviving wife (or dependent husband) any surviving child of the deceased employee, at the time under eighteen years of age, shall have his compensation increased to fifteen per centum of such wages, and the same shall be payable until he shall reach the age of eighteen years; provided that the total amount payable shall in no case exceed sixty-six and two-thirds per centum of such wages. [*Subd. 2 am'd by L. 1914, ch. 316.*]

3. If there be surviving child or children of the deceased under the age of eighteen years, but no surviving wife (or dependent husband) then for the support of each such child until of the age of eighteen years, fifteen per centum of the wages of the deceased, provided that the aggregate shall in no case exceed sixty-six and two-thirds per centum of such wages.

4. If the amount payable to surviving wife (or dependent husband) and to children under the age of eighteen years shall be less in the aggregate than sixty-six and two-thirds per centum of the average wages of the deceased, then for the support of grandchildren or brothers and sisters under the age of eighteen years, if dependent upon the deceased at the time of the accident, fifteen per centum of such wages for the support of each such person until of the age of eighteen years; and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the accident, fifteen per centum of such wages during such dependency. But in no case shall the aggregate amount payable under this subdivision exceed the difference between sixty-six and two-thirds per centum of such wages, and the amount payable as hereinbefore provided to surviving wife (or dependent husband) or for the support of surviving child or children.

Any excess of wages over one hundred dollars a month shall not be taken into account in computing compensation under this section. All questions of dependency shall be determined as of the time of the accident.

§ 17. *Aliens.*—Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada, shall be the same in amount as provided for residents, except that the commission may, at its option, or upon the application of the insurance carrier, shall, commute all future installments of compensation to be paid to such aliens; by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the commission.

* So in original.

§ 18. **Notice of injury.**—Notice of an injury for which compensation is payable under this chapter shall be given to the commission and to the employer within ten days after disability, and also in case of the death of the employee resulting from such injury, within thirty days after such death. Such notice may be given by any person claiming to be entitled to compensation, or by some one in his behalf. The notice shall be in writing, and contain the name and address of the employee, and state in ordinary language the time, place, nature and cause of the injury, and be signed by him or by a person on his behalf or, in case of death, by any one or more of his dependents or by a person on their behalf. It shall be given to the commission by sending it by mail, by registered letter, addressed to the commission at its office. It shall be given to the employer by delivering it to him or sending it by mail, by registered letter, addressed to the employer at his or its last known place of residence; provided that, if the employer be a partnership then such notice may be so given to any one of the partners, and if the employer be a corporation, then such notice may be given to any agent or officer thereof upon whom legal process may be served, or any agent in charge of the business in the place where the injury occurred. The failure to give such notice, unless excused by the commission either on the ground that notice for some sufficient reason could not have been given, or on the ground that the state fund, insurance company, or employer, as the case may be, has not been prejudiced thereby, shall be a bar to any claim under this chapter.

§ 19. **Medical examination.**—An employee injured claiming or entitled to compensation under this chapter shall, if requested by the commission, submit himself for medical examination at a time, and from time to time, at a place reasonably convenient for the employee, and as may be provided by the rules of the commission. If the employee or the insurance carrier request he shall be entitled to have a physician or physicians of his own selection to be paid by him present to participate in such examination. If an employee refuse to submit himself to examination, his right to prosecute any proceeding under this chapter shall be suspended, and no compensation shall be payable, for the period of such refusal.

§ 20. **Determination of claims for compensation.**—At any time after the expiration of the first fourteen days of disability on the part of an injured employee, or at any time after his death, a claim for compensation may be presented to the commission. The commission shall have full power and authority to determine all questions in relation to the payment of claims for compensation under the provisions of this chapter. The commission shall make or cause to be made such investigation as it deems necessary, and upon application of either party, shall order a hearing, and within thirty days after a claim for compensation is submitted under this section, or such hearing closed, shall make or deny an award, determining such claim for compensation, and file the same in the office of the commission, together with a statement of its conclusions of fact and rulings of law. The commission may, before making an award, require the claimant to appear before an arbitration committee appointed by it and consisting of one representative of employees, one representative of employers, and either a member of the commission or a person specially deputed by the commission to act as chairman, before which the evidence in regard to the claim shall be adduced and by which it shall be

considered and reported upon. Immediately after such filing the commission shall send to the parties a copy of the decision. Upon a hearing pursuant to this section either party may present evidence and be represented by counsel. The decision of the commission shall be final as to all questions of fact, and, except as provided in section twenty-three, as to all questions of law.

§ 21. **Presumptions.**—In any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed in the absence of substantial evidence to the contrary

1. That the claim comes within the provisions of this chapter;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty.

§ 22. **Modification of award.**—Upon its own motion or upon the application of any party in interest, on the ground of a change in conditions, the commission may at any time review any award, and, on such review, may make an award ending, diminishing or increasing the compensation previously awarded, subject to the maximum or minimum provided in this chapter, and shall state its conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award. No such review shall affect such award as regards any moneys already paid.

§ 23. **Appeals from the commission.**—An award or decision of the commission shall be final and conclusive upon all questions within its jurisdiction, as against the state fund or between the parties, unless within thirty days after a copy of such award or decision has been sent to the parties, an appeal be taken to the appellate division of the supreme court of the third department. The commission may also, in its discretion, where the claim for compensation was not made against the state fund, on the application of either party, certify to such appellate division of the supreme court, questions of law involved in its decision. Such appeals and the questions so certified shall be heard in a summary manner and shall have precedence over all other civil cases in such court. The commission shall be deemed a party to every such appeal, and the attorney-general, without extra compensation, shall represent the commission thereon. An appeal may also be taken to the court of appeals in all cases where such an appeal would lie from a decision of an appellate division, in the same manner and subject to the same limitations as is now provided in civil actions. Otherwise such appeals shall be subject to the law and practice applicable to appeals in civil actions. Upon the final determination of such an appeal, the commission shall make an award or decision in accordance therewith.

§ 24. **Costs and fees.**—If the commission or the court before which any proceedings for compensation or concerning an award of compensation have been brought, under this chapter, determines that such proceedings have not been so brought upon reasonable ground, it shall assess the whole cost of the proceeding upon the party who has so brought them. Claims for legal services in connection with any claim arising under this chapter, and claims for services or treatment rendered or supplies furnished pursuant to section thirteen of this chapter, shall not be enforceable unless approved by the commission. If so approved, such claim or claims shall become a lien

upon the compensation awarded, but shall be paid therefrom only in the manner fixed by the commission.

§ 25. **Compensation, how payable.**—Compensation under the provisions of this chapter shall be payable periodically, in accordance with the method of payment of the wages of the employee at the time of his injury or death, and shall be so provided for in any award; but the commission may determine that all payments or payments as to any particular group may be made monthly or at any other period, as it may deem advisable. The commission, whenever it shall so deem advisable, may commute such periodical payments to one or more lump sum payments, provided the same shall be in the interest of justice. If the award requires payment of compensation otherwise than from the state fund all payments as required by the award shall be made directly to the commission or to a deputy specially authorized to receive the same, and disbursed in accordance with its award to the persons entitled thereto. And employers and insurance companies shall for such purpose be permitted, or when necessary to protect the interest of the beneficiary may be required, to make deposits to secure the prompt and convenient payment of such compensation.

§ 26. **Enforcement of payment in default.**—If payment of compensation, or an installment thereof, due under the terms of an award, be not made within ten days after the same is due, by the employer or insurance corporation liable therefor, the amount of such payment shall constitute a liquidated claim for damages against such employer or insurance corporation, which with an added penalty of fifty per centum may be recovered in an action to be instituted by the commission in the name of the people of the state. If such default be made in the payment of an installment of compensation and the whole amount of such compensation be not due, the commission may, if the present value of such compensation be computable, declare the whole amount thereof due, and recover the amount thereof with the added penalty of fifty per centum, as provided by this section. Any such action may be compromised by the commission or may be prosecuted to final judgment as, in the discretion of the commission, may best serve the interests of the persons entitled to receive the compensation or the benefits. Compensation recovered under this section shall be disbursed by the commission to the persons entitled thereto in accordance with the award. A penalty recovered pursuant to this section shall be paid into the state treasury, and be applicable to the expenses of the commission.

§ 27. **Depositing future payments.**—If an award under this chapter requires payment of compensation by an employer or an insurance corporation in periodical payments, and the nature of the injury makes it possible to compute the present value of all future payments with due regard for life contingencies, the commission may, in its discretion, at any time, compute and permit or require to be paid into the state fund an amount equal to the present value of all unpaid compensation for which liability exists, in trust; and thereupon such employer or insurance corporation shall be discharged from any further liability under such award and payment of the same shall be assumed by the state fund.

§ 28. **Limitation of right to compensation.**—The right to claim compensation under this chapter shall be forever barred unless within one year after the injury or if death result therefrom, within one year after such

death, a claim for compensation thereunder shall be filed with the commission.

§ 29. Subrogation to remedies of employees.—If a workman entitled to compensation under this chapter be injured or killed by the negligence or wrong of another not in the same employ, such injured workman, or in case of death, his dependents, shall, before any suit or claim under this chapter, elect whether to take compensation under this chapter or to pursue his remedy against such other. Such election shall be evidenced in such manner as the commission may by rule or regulation prescribe. If he elect to take compensation under this chapter, the cause of action against such other shall be assigned to the state for the benefit of the state insurance fund, if compensation be payable therefrom, and otherwise to the person or association or corporation liable for the payment of such compensation, and if he elect to proceed against such other, the state insurance fund, person or association or corporation, as the case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such other person actually collected, and the compensation provided or estimated by this chapter for such case. Such a cause of action assigned to the state may be prosecuted or compromised by the commission. A compromise of any such cause of action by the workman or his dependents at an amount less than the compensation provided for by this chapter shall be made only with the written approval of the commission, if the deficiency of compensation would be payable from the state insurance fund, and otherwise with the written approval of the person, association or corporation liable to pay the same.

§ 30. Revenues or benefits from other sources not to affect compensation.—No benefits, savings or insurance of the injured employee, independent of the provisions of this chapter, shall be considered in determining the compensation or benefits to be paid under this chapter, except that, in case of the death of an employee of the state, a municipal corporation or any other political subdivision of the state, any benefit payable under a pension system which is not sustained in whole or in part by the contributions of the employee, may be applied toward the payment of the death benefit provided by this chapter. [Section 30 am'd by L. 1914, ch. 316.]

§ 31. Agreement for contribution by employee void.—No agreement by an employee to pay any portion of the premium paid by his employer to the state insurance fund or to contribute to a benefit fund or department maintained by such employer or to the cost of mutual insurance or other insurance, maintained for or carried for the purpose of providing compensation as herein required, shall be valid, and any employer who makes a deduction for such purpose from the wages or salary of any employee entitled to the benefits of this chapter shall be guilty of a misdemeanor.

§ 32. Waiver agreements void.—No agreement by an employee to waive his right to compensation under this chapter shall be valid.

§ 33. Assignments; exemptions.—Claims for compensation or benefits due under this chapter shall not be assigned, released or commuted except as provided by this chapter, and shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived. Compensation and benefits shall be paid only to employees or their dependents.

§ 34. Preferences.—The right of compensation granted by this chapter shall have the same preference or lien without limit of amount against the assets of the employer as is now or hereafter may be allowed by law for a claim for unpaid wages for labor.

ARTICLE 3

SECURITY FOR COMPENSATION

Section 50. Security for payment of compensation.

51. Posting of notice regarding compensation.

52. Effect of failure to secure compensation.

53. Release from all liability.

54. The insurance contract.

§ 50. Security for payment of compensation.—An employer shall secure compensation to his employees in one of the following ways:

1. By insuring and keeping insured the payment of such compensation in the state fund, or

2. By insuring and keeping insured the payment of such compensation with any stock corporation or mutual association authorized to transact the business of workmen's compensation insurance in this state. If insurance be so effected in such a corporation or mutual association the employer shall forthwith file with the commission, in form prescribed by it, a notice specifying the name of such insurance corporation or mutual association together with a copy of the contract or policy of insurance.

3. By furnishing satisfactory proof to the commission of his financial ability to pay such compensation for himself, in which case the commission may, in its discretion, require the deposit with the commission of securities of the kind prescribed in section thirteen of the insurance law, in an amount to be determined by the commission, to secure his liability to pay the compensation provided in this chapter.

If an employer fail to comply with this section, he shall be liable to a penalty during which such failure continues of an amount equal to the pro rata premium which would have been payable for insurance in the state fund for such period of noncompliance to be recovered in an action brought by the commission.

The commission may, in its discretion, for good cause shown, remit any such penalty, provided the employer in default secure compensation as provided in this section. [*Subd. 3 am'd by L. 1914, ch. 316.*]

§ 51. Posting of notice regarding compensation.—Every employer who has complied with section fifty of this chapter shall post and maintain in a conspicuous place or places in and about his place or places of business type-written or printed notices in form prescribed by the commission, stating the fact that he has complied with all the rules and regulations of the commission and that he has secured the payment of compensation to his employees and their dependents in accordance with the provisions of this chapter.

§ 52. Effect of failure to secure compensation.—Failure to secure the payment of compensation shall have the effect of enabling the injured employee or his dependents to maintain an action for damages in the courts, as prescribed by section eleven of this chapter.

§ 53. Release from all liability.—An employer securing the payment of compensation by contributing premiums to the state fund shall thereby become relieved from all liability for personal injuries or death sustained by his employees, and the persons entitled to compensation under this chapter shall have recourse therefor only to the state fund and not to the employer. An employer shall not otherwise be relieved from the liability for compensation prescribed by this chapter except by the payment thereof by himself or his insurance carrier.

§ 54. The insurance contract.—1. Right of recourse to the insurance carrier. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association authorized to transact workmen's compensation insurance in this state shall contain a provision setting forth the right of the commission to enforce in the name of the people of the state of New York for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such compensation; provided, however, that payment in whole or in part of such compensation by either the employer or the insurance carrier shall to the extent thereof be a bar to the recovery against the other of the amount so paid.

2. Knowledge and jurisdiction of the employer extended to cover the insurance carrier. Every such policy shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this chapter, be jurisdiction of the insurance carrier and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer for the payment of compensation under the provisions of this chapter.

3. Insolvency of employer does not release the insurance carrier. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries or death sustained by an employee during the life of such policy.

4. Limitation of indemnity agreements. Every contract or agreement of an employer the purpose of which is to indemnify him from loss or damage on account of the injury of an employee by accidental means, or on account of the negligence of such employer or his officer, agent or servant, shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for by this chapter.

5. Cancellation of insurance contracts. No contract of insurance issued by a stock company or mutual association against liability arising under this chapter shall be cancelled within the time limited in such contract for its expiration until at least ten days after notice of intention to cancel such contract, on a date specified in such notice, shall be filed in the office of the commission and also served on the employer. Such notice shall be served on the employer by delivering it to him or by sending it by mail, by registered letter, addressed to the employer at his or its last known place of residence;

provided that, if the employer be a partnership, then such notice may be so given to any one of the partners, and if the employer be a corporation then the notice may be given to any agent or officer of the corporation upon whom legal process may be served.

ARTICLE 4

STATE WORKMEN'S COMPENSATION COMMISSION

Section 60. State workmen's compensation commission.

61. Secretary, deputies and other employees.
62. Salaries and expenses.
63. Office.
64. Sessions of commission.
65. Powers of individual commissioners and deputy commissioners.
66. Powers and duties of secretary.
67. Rules.
68. Technical rules of evidence or procedure not required.
69. Issue of subpoena; penalty for failure to obey.
70. Recalcitrant witnesses punishable as for contempt.
71. Fees and mileage of witnesses.
72. Depositions.
73. Transcript of stenographer's minutes; effect as evidence.
74. Jurisdiction of commission to be continuing.
75. Report of commission.
76. Commission to furnish blank forms.

§ 60. State workmen's compensation commission.—A state workmen's compensation commission is hereby created, consisting of five commissioners, to be appointed by the governor, by and with the advice and consent of the senate, one of whom shall be designated by the governor as chairman, not more than three of which shall belong to the same political party.* The commissioner of labor shall also be an ex officio member of the commission but shall not have a vote on orders, decisions or awards. Appointments may be made during the recess of the senate, but shall be subject to confirmation by the senate at the next ensuing session of the legislature. The term of office of appointive members of the commission shall be five years, except that the first members thereof shall be appointed for such terms that the term of one member shall expire on January first, nineteen hundred and sixteen, and on January first of every succeeding year. Successors shall be appointed in like manner for a full term of five years. Vacancies shall be filled in like manner by appointment for the unexpired term. Each appointive member of the commission shall before entering upon the duties of his office execute an official undertaking in the sum of fifty thousand dollars to be approved by the comptroller and filed in his office. The governor may remove any appointive commissioner for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges and an opportunity of being publicly heard in person or by counsel, upon not less than ten days' notice. If such a commissioner be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against him and a complete record of his proceedings and his findings thereon. Each appointive commissioner shall devote his entire time to the duties of his office, and shall not hold any position of trust or profit, or engage in any

* Words "not more than three of which shall belong to the same political party" not in L. 1913, ch. 816.

occupation or business interfering or inconsistent with his duties as such commissioner, or serve on or under any committee of a political party. The commission shall have an official seal which shall be judicially noticed.

§ 61. **Secretary, deputies and other employees.**—The commission may appoint one or more deputy commissioners and a secretary to hold office during its pleasure. It may also employ, during its pleasure, an actuary, accountants, medical doctors, clerks, stenographers, inspectors and other employees as may be needed to carry out the provisions of this chapter. The authority, duties and compensation of all subordinates and employees, except as provided by this chapter, shall be fixed by the commission.

§ 62. **Salaries and expenses.**—The chairman of the commission shall receive an annual salary of ten thousand dollars, and each other commissioner, an annual salary of seven thousand dollars. The secretary shall receive an annual salary of five thousand dollars. The commissioners and their subordinates shall be entitled to their actual and necessary expenses while traveling on the business of the commission. The commission may also make the necessary expenditure to obtain statistical and other information to establish classifications of employments with respect to hazards and risks. The salaries and compensation of the subordinates and all other expenses of the commission, including the premiums to be paid by the state treasurer for the bond to be furnished by him, shall be paid out of the state treasury upon vouchers signed by at least two commissioners.

§ 63. **Office.**—The commission shall keep and maintain its principal office in the city of Albany, in rooms in the capitol assigned by the trustees of public buildings. The office shall be supplied with necessary office furniture, supplies, books, maps, stationery, telephone connections and other necessary appliances, at the expense of the state, payable in the same manner as other expenses of the commission.

§ 64. **Sessions of commission.**—The commission shall be in continuous session and open for the transaction of business during all business hours of every day excepting Sundays and legal holidays. All sessions shall be open to the public and may be adjourned, upon entry thereof in its records, without further notice. Whenever convenience of parties will be promoted or delay and expense prevented, the commission may hold sessions in cities other than the city of Albany. A party may appear before such commission and be heard in person or by attorney. Every vote and official act of the commission shall be entered of record, and the records shall contain a record of each case considered, and the award, decision or order made with respect thereto, and all voting shall be by the calling of each commissioner's name by the secretary and each vote shall be recorded as cast. A majority of the commission shall constitute a quorum. A vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the full commission so long as a majority remains.

§ 65. **Powers of individual commissioners and deputy commissioners.**—Any investigation, inquiry or hearing which the commission is authorized to hold or undertake may be held or taken by or before any commissioner or deputy commissioner, and the award, decision or order of a commissioner or deputy commissioner, when approved and confirmed by the commission

and ordered filed in its office, shall be deemed to be the award, decision or order of the commission. Each commissioner and deputy shall, for the purposes of this chapter, have power to administer oaths, certify to official acts, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. The commission may authorize any deputy to conduct any such investigation, inquiry or hearing, in which case he shall have the power of a commissioner in respect thereof.

§ 66. Powers and duties of secretary.—The secretary of the commission shall:

1. Maintain a full and true record of all proceedings of the commission, of all documents or papers ordered filed by the commission, of decisions or orders made by a commissioner or deputy commissioner, and of all decisions or orders made by the commission or approved and confirmed by it and ordered filed, and he shall be responsible to the commission for the safe custody and preservation of all such documents at its office;

2. Have power to administer oaths in all parts of the state, so far as the exercise of such power is properly incident to the performance of his duty or that of the commission;

3. Designate, from time to time, with the approval of the commission, one of the clerks appointed by the commission to exercise the powers and duties of the secretary during his absence;

4. Under the direction of the commission, have general charge of its office, superintend its clerical business, and perform such other duties as the commission may prescribe.

§ 67. Rules.—The commission shall adopt reasonable rules, not inconsistent with this chapter, regulating and providing for

1. The kind and character of notices, and the service thereof, in case of accident and injury to employees;

2. The nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the right to compensation;

3. The forms of application for those claiming to be entitled to compensation.

4. The method of making investigations, physical examinations and inspections;

5. The time within which adjudications and awards shall be made;

6. The conduct of hearings, investigations and inquiries;

7. The giving of undertakings by all subordinates who are empowered to receive and disburse moneys, to be approved by the attorney-general as to form and by the comptroller as to sufficiency;

8. Carrying into effect the provisions of this chapter;

9. The collection, maintenance and disbursement of the state insurance fund.

§ 68. Technical rules of evidence or procedure not required.—The commission or a commissioner or deputy commissioner in making an investigation or inquiry or conducting a hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter; but may make such investigation or

inquiry or conduct such hearing in such manner as to ascertain the substantial rights of the parties.

§ 69. **Issue of subpoena; penalty for failure to obey.**—A subpoena shall be signed and issued by a commissioner, a deputy commissioner or by the secretary of the commission and may be served by any person of full age in the same manner as a subpoena issued out of a court of record. If a person fail, without reasonable cause, to attend in obedience to a subpoena, or to be sworn or examined or answer a question or produce a book or paper, or to subscribe and swear to his deposition after it has been correctly reduced to writing, he shall be guilty of a misdemeanor.

§ 70. **Recalcitrant witnesses punishable as for contempt.**—If a person in attendance before the commission or a commissioner or deputy commissioner refuses, without reasonable cause, to be examined, or to answer a legal and pertinent question or to produce a book or paper, when ordered so to do by the commission or a commissioner or deputy commissioner, the commission may apply to a justice of the supreme court upon proof by affidavit of the facts for an order returnable in not less than two nor more than five days directing such person to show cause before the justice who made the order, or any other justice of the supreme court, why he should not be committed to jail. Upon the return of such order the justice shall examine under oath such person and give him an opportunity to be heard; and if the justice determine that he has refused without reasonable cause or legal excuse to be examined or to answer a legal and pertinent question, or to produce a book or paper which he was ordered to bring, he may forthwith, by warrant, commit the offender to jail, there to remain until he submits to do the act which he was so required to do or is discharged according to law.

§ 71. **Fees and mileage of witnesses.**—Each witness who appears in obedience to a subpoena before the commission or a commissioner or deputy commissioner, or person employed by the commission to obtain the required information, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the supreme court, which shall be audited and paid from the state treasury in the same manner as other expenses of the commission. A witness subpoenaed at the instance of a party other than the commission, a commissioner, deputy commissioner or person acting under the authority of the commission shall be entitled to fees or compensation from the state treasury, if the commission certify that his testimony was material to the matter investigated, but not otherwise.

§ 72. **Depositions.**—The commission may cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the supreme court.

§ 73. **Transcript of stenographer's minutes; effect as evidence.**—A transcribed copy of the testimony, evidence and procedure or of a specific part thereof, or of the testimony of a particular witness or of a specific part thereof, on any investigation, by a stenographer appointed by the commission, being certified by such stenographer to be a true and correct transcript thereof and to have been carefully compared by him with his original notes, may be received in evidence by the commission with the same effect as if such stenographer were present and testified to the facts so certified, and a copy of

such transcript shall be furnished on demand to any party upon payment of the fee provided for a transcript of similar minutes in the supreme court.

§ 74. **Jurisdiction of commission to be continuing.**—The power and jurisdiction of the commission over each case shall be continuing, and it may, from time to time, make such modification or change with respect to former findings or orders relating thereto, as in its opinion may be just.

§ 75. **Report of commission.**—Annually on or before the first day of February, the commission shall make a report to the legislature, which shall include a statement of the number of awards made by it and the causes of the accidents leading to the injuries for which the awards were made, a detailed statement of the expenses of the commission, the condition of the state insurance fund, together with any other matter which the commission deems proper to report to the legislature, including any recommendations it may desire to make.

§ 76. **Commission to furnish blank forms.**—The commission shall prepare and cause to be distributed so that the same may be readily available blank forms of application for compensation, notice to employers, proofs of injury or death, of medical or other attendance or treatment, of employment and wage earnings, and for such other purposes as may be required. Insured employers shall constantly keep on hand a sufficient supply of such blanks.

ARTICLE 5

STATE INSURANCE FUND

Section 90. Creation of state fund.

91. State treasurer custodian of fund.
92. Surplus and reserve.
93. Investment of surplus or reserve.
94. Administration expense.
95. Classification of risks and adjustment of premiums.
96. Associations for accident prevention.
97. Requirements in classifying employment and fixing and adjusting premium rates.
98. Time of payment of premiums.
99. Action for collection in case of default.
100. Withdrawal from fund.
101. Audit of payrolls.
102. Falsification of payroll.
103. Wilful misrepresentation.
104. Inspections.
105. Disclosures prohibited.

§ 90. **Creation of state fund.**—There is hereby created a fund to be known as "the state insurance fund," for the purpose of insuring employers against liability under this chapter and of assuring to the persons entitled thereto the compensation provided by this chapter. Such fund shall consist of all premiums received and paid into the fund, of property and securities acquired by and through the use of moneys belonging to the fund and of interest earned upon moneys belonging to the fund and deposited or invested as herein provided. Such fund shall be administered by the commission without liability on the part of the state beyond the amount of such fund. Such

fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in this chapter.

§ 91. **State treasurer custodian of fund.**—The state treasurer shall be the custodian of the state insurance fund; and all disbursements therefrom shall be paid by him upon vouchers authorized by the commission and signed by any two members thereof. The state treasurer shall give a separate and additional bond in an amount to be fixed by the governor and with sureties approved by the state comptroller conditioned for the faithful performance of his duty as custodian of the state fund. The state treasurer may deposit any portion of the state fund not needed for immediate use, in the manner and subject to all the provisions of law respecting the deposit of other state funds by him. Interest earned by such portion of the state insurance fund deposited by the state treasurer shall be collected by him and placed to the credit of the fund.

§ 92. **Surplus and reserve.**—Ten per centum of the premiums collected from employers insured in the fund shall be set aside by the commission for the creation of a surplus until such surplus shall amount to the sum of one hundred thousand dollars, and thereafter five per centum of such premiums, until such time as in the judgment of the commission such surplus shall be sufficiently large to cover the catastrophe hazard. The commission shall also set up and maintain a reserve adequate to meet anticipated losses and carry all claims and policies to maturity.

§ 93. **Investment of surplus or reserve.**—The commission may, pursuant to a resolution of the commission approved by the comptroller, invest any of the surplus or reserve funds belonging to the state insurance fund in the same securities and investments authorized for investment by savings banks. All such securities or evidences of indebtedness shall be placed in the hands of the state treasurer who shall be the custodian thereof. He shall collect the principal and interest thereof, when due, and pay the same into the state insurance fund. The state treasurer shall pay all vouchers drawn on the state insurance fund for the making of such investments when signed by two members of the commission, upon delivery of such securities or evidences of indebtedness to him, when there is attached to such vouchers a certified copy of the resolution of the commission authorizing the investment. The commission may, upon like resolution approved by the comptroller, sell any of such securities.

§ 94. **Administration expense.**—The entire expense of administering the state insurance fund shall be paid in the first instance by the state, out of moneys appropriated therefor. In the month of January, nineteen hundred and eighteen, and annually thereafter in such month, the commission shall ascertain the just amount incurred by the commission during the preceding calendar year, in the administration of the state insurance fund exclusive of the expense for the examination, determination and payment of claims, and shall refund such amount to the state treasury. If there be employees of the commission other than the commissioners themselves and the secretary whose time is devoted partly to the general work of the commission and partly to the work of the state insurance fund, and in case there is other

expense which is incurred jointly on behalf of the general work of the commission and the state insurance fund, an equitable apportionment of the expense shall be made for such purpose and the part thereof which is applicable to the state insurance fund shall be chargeable thereto. As soon as practicable after December thirty-one, nineteen hundred and seventeen, and annually thereafter, the commission shall calculate the total administrative expense incurred during the preceding calendar year in connection with the examination, determination and payment of claims and the percentage which this expense bore to the total compensation payments made during that year. The percentage so calculated and determined shall be assessed against the insurance carriers including the state fund as an addition to the payments required from them in the settlement of claims during the year immediately following, and the amounts so secured shall be transferred to the state treasury to reimburse it for this portion of the expense of administering this chapter.

§ 95. **Classification of risks and adjustment of premiums.**—Employments coming under the provisions of this chapter shall be divided for the purposes of the state fund, into the groups set forth in section two of this chapter. Separate accounts shall be kept of the amounts collected and expended in respect to each such group for convenience in determining equitable rates; but for the purpose of paying compensation the state fund shall be deemed one and indivisible. The commission shall have power to rearrange any of the groups set forth in section two by withdrawing any employment embraced in it and transferring it wholly or in part to any other group, and from such employments to set up new groups at its discretion. The commission shall determine the hazards of the different classes composing each group and fix the rates of premiums therefor based upon the total payroll and number of employees in each of such classes of employment at the lowest possible rate consistent with the maintenance of a solvent state insurance fund and the creation of a reasonable surplus and reserve; and for such purpose may adopt a system of schedule rating in such a manner as to take account of the peculiar hazard of each individual risk.

§ 96. **Associations for accident prevention.**—The employers in any of the groups described in section two or established by the commission may with the approval of the commission form themselves into an association for accident prevention, and may make rules for that purpose. If the commission is of the opinion that an association so formed sufficiently represents the employers in such group, it may approve such rules, and when so approved and approved by the industrial board of the labor department they shall be binding on all employers in such group. If such an approved association appoint an inspector or expert for the purpose of accident prevention, the commission may at its discretion provide in whole or in part for the payment of the remuneration and expenses of such inspector or expert, such payment to be charged in the accounting to such group. Every such approved association may make recommendations to the commission concerning the fixing of premiums for classes of hazards, and for individual risks within such group.

§ 97. **Requirements in classifying employment and fixing and adjusting premium rates.**—The following requirements shall be observed in classifying employments and fixing and adjusting premium rates:

1. The commission shall keep an accurate account of the money paid in premiums by each of the several classes of employments or industries, and the disbursements on account of injuries and deaths of employees thereof, including the setting up of reserves adequate to meet anticipated losses and to carry the claims to maturity, and also, on account of the money received from each individual employer and the amount disbursed from the state insurance fund on account of injuries and death of the employees of such employer, including the reserves so set up;

2. On January first, nineteen hundred and fifteen, and every fifth year thereafter, and at such other times as the commission, in its discretion, may determine, a readjustment of the rate shall be made for each of the several groups of employment or industries and of each hazard class therein, which, in the judgment of the commission, shall have developed an average loss ratio, in accordance with the experience of the commission in the administration of the law as shown by the accounts kept as provided herein;

3. If any such accounting show an aggregate balance (deemed by the commission to be safely and properly divisible *) remaining to the credit of any class of employment or industry, after the amount required shall have been credited to the surplus and reserve funds and after the payment of all awards for injury or death lawfully chargeable against the same, the commission may in its discretion credit to each individual member of such group, who shall have been a subscriber to the state insurance fund for a period of six months or more prior to the time of such readjustment, and whose premium or premiums exceed the amount of the disbursements from the fund on account of injuries or death of his employees during such period, on the instalment or instalments of premiums next due from him such proportion of such balance as the amount of his prior paid premiums sustains to the whole amount of such premiums paid by the group to which he belongs since the last readjustment of rates;

4. If the amount of premiums collected from any employer at the beginning of any period of six months is ascertained and calculated by using the estimated expenditure of wages for the period of time covered by such premium payment as a basis, an adjustment of the amount of such premium shall be made at the end of such six months, and the actual amount of such premium shall be determined in accordance with the amount of the actual expenditure of wages for such period; and, if such wage expenditure for such period is less than the amount on which such estimated premium was collected, such employer shall be entitled to receive a refund from the state insurance fund of the difference between the amount so paid by him and the amount so found to be actually due, or to have the amount of such difference credited on succeeding premium payments, at his option; and if such actual premium, when so ascertained, exceeds in amount a premium so paid by such employer at the beginning of such six months, such employer shall immediately upon being advised of the true amount of such premium due forthwith pay to the treasurer of the state an amount equal to the difference between the amount actually found to be due and the amount paid by him at the beginning of such six months' period.

* Word "devisable" in L. 1913, ch. 810, replaced here by word "divisible."

§ 98. Time of payment of premiums.—Except as otherwise provided in this chapter, all premiums shall be paid by every employer into the state insurance fund on or before July first, nineteen hundred and fourteen, and semi-annually thereafter, or at such other time or times as may be prescribed by the commission. The commission shall mail a receipt for the same to the employer and place the same to the credit of the state insurance fund in the custody of the state treasurer.

§ 99. Action for collection in case of default.—If an employer shall default in any payment required to be made by him to the state insurance fund, the amount due from him shall be collected by civil action against him in the name of the people of the state of New York, and it shall be the duty of the commission on the first Monday of each month after July first, nineteen hundred and fourteen, to certify to the attorney-general of the state the names and residences, or places of business, of all employers known to the commission to be in default for such payment or payments for a longer period than five days and the amount due from such employer, and it shall then be the duty of the attorney-general forthwith to bring or cause to be brought against each such employer a civil action in the proper court for the collection of such amount so due, and the same when collected, shall be paid into the state insurance fund, and such employer's compliance with the provisions of this chapter requiring payments to be made to the state insurance fund shall date from the time of the payment of said money so collected as aforesaid to the state treasurer for credit to the state insurance fund.

§ 100. Withdrawal from fund.—Any employer may, upon complying with subdivision two or three of section fifty of this chapter, withdraw from the fund by turning in his insurance contract for cancellation, provided he is not in arrears for premiums due the fund and has given to the commission written notice of his intention to withdraw within thirty days before the expiration of the period for which he has elected to insure in the fund; provided that in case any employer so withdraws, his liability to assessments shall, notwithstanding such withdrawal, continue for one year after the date of such withdrawal as against all liabilities for such compensation accruing prior to such withdrawal.

§ 101. Audit of payrolls.—Every employer who is insured in the state insurance fund shall keep a true and accurate record of the number of his employees and the wages paid by him, and shall furnish to the commission, upon demand, a sworn statement of the same. Such record shall be open to inspection at any time and as often as the commission shall require to verify the number of employees and the amount of the payroll.

§ 102. Falsification of payroll.—An employer who shall wilfully misrepresent the amount of the payroll upon which the premiums chargeable by the state insurance fund is to be based shall be liable to the state in ten times the amount of the difference between the premiums paid and the amount the employer should have paid had his payroll been correctly computed and the liability to the state under this section shall be enforced in a civil action in the name of the state insurance fund, and any amount so collected shall become a part of such fund.

§ 103. **Wilful misrepresentation.**—Any person who wilfully misrepresents any fact in order to obtain insurance in the state insurance fund at less than the proper rate for such insurance, or in order to obtain payment out of such fund, shall be guilty of a misdemeanor.

§ 104. **Inspections.**—The commission shall have the right to inspect the plants and establishments of employers insured in the state insurance fund; and the inspectors designated by the commission shall have free access to such premises during regular working hours.

§ 105. **Disclosures prohibited.**—Information acquired by the commission or its officers or employees from employers or employees pursuant to this chapter shall not be opened to public inspection, and any officer or employee of the commission who, without authority of the commission or pursuant to its rules or as otherwise required by law shall disclose the same shall be guilty of a misdemeanor.

ARTICLE 6

MISCELLANEOUS PROVISIONS

Section 110. **Penalties applicable to expense of commission.**

- 111. Record and report of injuries by employers.
- 112. Information to be furnished by employer.
- 113. Inspection of records of employers.
- 114. Interstate commerce.
- 115. Penalties for false representations.
- 116. Limitation of time.
- 117. Duties of commissioner of labor.
- 118. Unconstitutional provisions.
- 119. Actions or causes of action pending.

§ 110. **Penalties applicable to expenses of commission.**—All penalties imposed by this chapter shall be applicable to the expenses of the commission. When collected by the commission such penalties shall be paid into the state treasury and be thereafter appropriated by the legislature for the purposes prescribed by this section.

§ 111. **Record and report of injuries by employers.**—Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing by the employer to the commission upon blanks to be procured from the commission for that purpose. Such report shall state the name and nature of the business of the employer, the location of his establishment or place of work, the name, address and occupation of the injured employee, the time, nature and cause of the injury and such other information as may be required by the commission. An employer who refuses or neglects to make a report as required by this section shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars.

Compare sections 20-a, 87 and 126 of the Labor Law, pp. 20, 63 and 86, *ante*.

§ 112. **Information to be furnished by employer.**—Every employer shall furnish the commission, upon request, any information required by it to carry out the provisions of this chapter. The commission, a commissioner, deputy commissioner, or any person deputized by the commission for that

purpose, may examine under oath any employer, officer, agent or employee. An employer or an employee receiving from the commission a blank with directions to file the same shall cause the same to be properly filled out so as to answer fully and correctly all questions therein, or if unable to do so, shall give good and sufficient reasons for such failure. Answers to such questions shall be verified under oath and returned to the commission within the period fixed by the commission therefor.

§ 113. *Inspection of records of employers.*—All books, records and payrolls of the employers showing or reflecting in any way upon the amount of wage expenditures of such employers shall always be open for inspection by the commission or any of its authorized auditors, accountants or inspectors for the purpose of ascertaining the correctness of the wage expenditure and number of men employed and such other information as may be necessary for the uses and purposes of the commission in the administration of this chapter.

§ 114. *Interstate commerce.*—The provisions of this chapter shall apply to employers and employees engaged in intrastate, and also in interstate or foreign commerce, for whom a rule of liability or method of compensation has been or may be established by the congress of the United States, only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, except that such employer and his employees working only in this state may, subject to the approval and in the manner provided by the commission and so far as not forbidden by any act of congress, accept and become bound by the provisions of this chapter in like manner and with the same effect in all respects as provided herein for other employers and their employees.

§ 115. *Penalties for false representation.*—If for the purpose of obtaining any benefit or payment under the provisions of this chapter, either for himself or any other person, any person wilfully makes a false statement or representation, he shall be guilty of a misdemeanor.

§ 116. *Limitation of time.*—No limitation of time provided in this chapter shall run as against any person who is mentally incompetent or a minor dependent so long as he has no committee, guardian or next friend.

§ 117. *Duties of commissioner of labor.*—The commissioner of labor shall render to the commission any proper aid and assistance by the department of labor as in his judgment does not interfere with the proper conduct of such department.

§ 118. *Unconstitutional provisions.*—If any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 119. *Actions or causes of action pending.*—This act shall not affect any action pending or cause of action existing or which accrued prior to July first, nineteen hundred and fourteen.

ARTICLE 7

LAWS REPEALED; WHEN TO TAKE EFFECT

Section 130. Laws repealed.

131. When to take effect.

§ 130. Laws repealed.—Article fourteen-a and sections two hundred and fifteen to two hundred and nineteen-g, both inclusive, of chapter thirty-six of the laws of nineteen hundred and nine, as amended * by chapter six hundred and seventy-four of the laws of nineteen hundred and ten, are hereby repealed.

§ 131. When to take effect.—This chapter shall take effect immediately†, provided that the application of this chapter as between employers and employees and the payment of compensation for injuries to employees or their dependents, in case of death, shall take effect July first, nineteen hundred and fourteen, but payments into the state insurance fund may be made prior to July first, nineteen hundred and fourteen.

§ 2. This act shall take effect immediately, except as provided in section one hundred and thirty-one as re-enacted hereby.

LIABILITY OF RAILWAY COMPANIES‡

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 64. Injuries to employees.—In all actions against a railroad corporation, foreign or domestic, doing business in this state, or against a receiver thereof, for personal injury to, or death resulting from personal injury of any person, while in the employment of such corporation, or receiver, arising from the negligence of such corporation or receiver or of any of its or his officers or employees, every employee, or his legal representatives, shall have the same rights and remedies for an injury, or for death, suffered by him, from the act or omission of such corporation or receiver or of its or his officers or employees, as are now allowed by law, and, in addition to the liability now existing by law, it shall be held in such actions that persons engaged in the service of any railroad corporation, foreign or domestic, doing business in this state, or in the service of a receiver thereof, who are intrusted by such corporation or receiver, with the authority of superintendence, control or command of other persons in the employment of such corporation or receiver, or with the authority to direct or control any other employee in the performance of the duty of such employee, or who have, as a part of their duty, for the time being, physical control or direction of the movement of a signal, switch, locomotive engine, car, train or telegraph office, are vice-principals of such corporation or receiver, and are not fellow-servants of such injured or deceased employee. If an employee, engaged in the service of any such railroad corporation, or of a receiver thereof, shall receive any injury by reason of any defect in the condition of the ways, works, machinery, plant, tools or implements, or of any car, train, locomotive or attachment thereto belonging, owned or operated, or being

* Should read "added."

† L. 1913, ch. 816, has words "January first, nineteen hundred and fourteen" instead of word "immediately."

‡ For the General Employers' Liability Law, see article 14 of the Labor Law, pp. 115-122, *ante*. See also sections 11, 29 and 53 of the Workmen's Compensation Law, pp. 190, 197, 199, *ante*.

run and operated by such corporation or receiver, when such defect could have been discovered by such corporation or receiver, by reasonable and proper care, tests or inspection, such corporation or receiver shall be deemed to have had knowledge of such defect before and at the time such injury is sustained; and when the fact of such defect shall be proved upon the trial of any action in the courts of this state, brought by such employee or his legal representatives, against any such railroad corporation or receiver, on account of such injuries so received, the same shall be prima facie evidence of negligence on the part of such corporation or receiver. This section shall not affect actions or causes of action existing on May twenty-ninth, nineteen hundred and six; and no contract, receipt, rule or regulation between an employee and a railroad corporation or receiver, shall exempt or limit the liability of such corporation or receiver from the provisions of this section.

This section applies to street surface railroads: *Kent v. Jamestown Street Ry. Co.*, 205 N. Y. 361.

The Federal Employers' Liability Act is paramount and exclusive as concerns interstate commerce cases: *Burnett v. Erie R. R. Co.*, 159 App. Div. 712.

DAMAGES FOR INJURIES CAUSING DEATH

ARTICLE I OF THE CONSTITUTION

Section 18. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

CODE OF CIVIL PROCEDURE

§ 1902. The executor or administrator of a decedent, who has left, him or her surviving, a husband, wife, or next of kin, may maintain an action to recover damages for a wrongful act, neglect, or default, by which the decedent's death was caused, against a natural person who, or a corporation which, would have been liable to an action in favor of the decedent, by reason thereof, if death had not ensued. Such an action must be commenced within two years after the decedent's death.

CRIMINAL LIABILITY FOR NEGLIGENCE

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1052. Manslaughter in second degree defined.

Negligent use of machinery.—A person who, by any act of negligence or misconduct in a business or employment in which he is engaged, or in the use or management of any machinery, animals, or property of any kind, intrusted to his care, or under his control, or by any unlawful, negligent or reckless act, not specified by or coming within the foregoing provisions of this article, or the provisions of some other statute, occasions the death of a human being, is guilty of manslaughter in the second degree.

Persons in charge of steamboats.—A person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness, or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, or other apparatus in which it is

generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned, is guilty of manslaughter in the second degree.

Persons in charge of steam engines.—An engineer or other person, having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, who wilfully, or from ignorance or gross neglect, creates or allows to be created, such an undue quantity of steam as to burst the boiler, engine, or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

§ 1893. Mismanagement of steam boilers.—An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or employing steam, employed in a railway, manufactory, or other mechanical works, who, wilfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

See also §§ 1891, 1892.

EMPLOYEES NOT TO DISPOSE OF MATERIAL FURNISHED

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1310. Conversion of materials furnished to a person for purpose of being manufactured.—Any person who shall wilfully pawn, pledge, sell or convert to his or her own use any material furnished to him or her for the purpose of being manufactured, if the same be of the value of more than twenty-five dollars, shall, upon conviction thereof, be adjudged guilty of grand larceny, and imprisoned in a state prison for a term not exceeding five years, but if the same be of the value of twenty-five dollars or under, he or she shall, upon conviction, be adjudged guilty of petit larceny, and be punished by imprisonment in a county jail not exceeding six months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment.

Nothing in this section contained shall be deemed or held to discharge any mechanic's lien, or right of lien in favor of any employee as now recognized by law.

CORRUPT INFLUENCING OF AGENTS, EMPLOYEES OR SERVANTS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 439. Corrupt influencing of agents, employees or servants.—Whoever gives, offers or promises to an agent, employee or servant, any gift or gratuity whatever, without the knowledge and consent of the principal, employer or master of such agent, employee or servant, with intent to influence his action in relation to his principal's, employer's or master's business; or an agent, employee or servant who without the knowledge and consent of his principal, employer or master, requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner to his principal's, employer's or master's business; or an agent, employee

or servant, who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master, or to employ service or labor for his principal, employer or master, receives directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employee or servant such commission, discount or bonus shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by such fine and by imprisonment for not more than one year.

Compare "Bribery of labor representatives," p. 283, *post*.

POLITICAL AND LEGAL RIGHTS AND PRIVILEGES OF WORKINGMEN

ALLOWING TIME FOR EMPLOYEES TO VOTE WITHOUT LOSS OF PAY

ELECTION LAW, CHAPTER 17 OF THE CONSOLIDATED LAWS

§ 365. Time allowed employees to vote.—Any person entitled to vote at a general election held within this state, shall on the day of such election be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such voter shall notify his employer before the day of such election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employees of municipalities.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 759. Refusal to permit employees to attend election.—A person or corporation who refuses to an employee entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employee to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

TO PREVENT EMPLOYERS FROM COERCING EMPLOYEES IN THEIR EXERCISE OF THE SUFFRAGE

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 772. Duress and intimidation of voters.—Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of

the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employees the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employees are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees,

Is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.

ATTACHMENT OF TOOLS AND GARNISHMENT OF WAGES CODE OF CIVIL PROCEDURE (CHAPTER 13, TITLE 2, ARTICLE I)

§ 1390. The following personal property, when owned by a householder is exempt from levy and sale by virtue of an execution, and each movable article thereof continues to be so exempt, while the family, or any of them, are removing from one residence to another:

6. The tools and implements of a mechanic, necessary to the carrying on of his trade, not exceeding in value twenty-five dollars.

§ 1391. In addition to the exemptions, allowed by the last section, necessary household furniture, working tools and team, professional instruments, furniture and library, not exceeding in value two hundred and fifty dollars, together with the necessary food for the team, for ninety days, are exempt from levy and sale by virtue of an execution, when owned by a person, being a householder, or having a family for which he provides, except where the execution is issued upon a judgment, recovered wholly upon one or more demands, either for work performed in the family as a domestic or for the purchase money of one or more articles, exempt as prescribed in this or the last section. Where a judgment has been recovered and where an execution issued upon said judgment has been returned wholly or partly unsatisfied, and where any wages, debts, earnings, salary, income from trust funds or profits are due and owing to the judgment debtor or shall thereafter become due and owing to him, to the amount of twelve dollars or more per week, the judgment creditor may apply to the court in which said judgment was recovered or the court having jurisdiction of the same without notice to the judgment debtor and upon satisfactory proof of such facts by affidavits or otherwise, the court, if a court not of record, a judge or justice thereof, must issue, or if a court of record, a judge or justice, must grant an order directing that an execution issue against the wages, debts, earnings, salary, income from trust funds or profits of said judgment debtor, and on presentation of such execution by the officer to whom delivered for collection to the person or persons from whom such wages, debts, earnings, salary, income from trust

funds or profits are due and owing, or may thereafter become due and owing to the judgment debtor, said execution shall become a lien and a continuing levy upon the wages, earnings, debts, salary, income from trust funds or profits, due or to become due to said judgment debtor to the amount specified therein which shall not exceed ten per centum thereof, and said levy shall be a continuing levy until said execution and the expenses thereof are fully satisfied and paid or until modified as hereinafter provided, but only one execution against the wages, debts, earnings, salary, income from trust funds or profits of said judgment debtor shall be satisfied at one time and where more than one execution has been issued or shall be issued pursuant to the provisions of this section against the same judgment debtor, they shall be satisfied in the order of priority in which such executions are presented to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing. It shall be the duty of any person or corporation, municipal or otherwise, to whom said execution shall be presented, and who shall at such time be indebted to the judgment debtor named in such execution, or who shall become indebted to such judgment debtor in the future, and while said execution shall remain a lien upon said indebtedness to pay over to the officer presenting the same, such amount of such indebtedness as such execution shall prescribe until said execution shall be wholly satisfied and such payment shall be a bar to any action therefor by any such judgment debtor. If such person or corporation, municipal or otherwise, to whom said execution shall be presented shall fail, or refuse to pay over to said officer presenting said execution, the percentage of said indebtedness, he shall be liable to an action therefor by the judgment creditor named in such execution, and the amount so recovered by such judgment creditor shall be applied towards the payment of said execution. Either party may apply at any time to the court from which such execution shall issue, or to any judge or justice issuing the same, or to the county judge of the county, and in any county where there is no county judge, to any justice of the city court upon such notice to the other party as such court, judge, or justice shall direct for a modification of said execution, and upon such hearing the said court, judge or justice may make such modification of said execution as shall be deemed just, and such execution as so modified shall continue in full force and effect until fully paid and satisfied, or until further modified as herein provided. This section, so far as it relates to wages and salary, due and owing or to become due and owing to the judgment debtor, shall not apply to judgments recovered more than ten years prior to September first, nineteen hundred and eight, nor to judgments heretofore or hereafter recovered upon such judgments, and any execution heretofore issued upon such judgments pursuant to an order heretofore granted under this section shall, when this act takes effect, cease to be a lien and continuing levy upon wages and salary thereafter to become due and owing to the judgment debtor. [*As am'd by L. 1911, chs. 489 and 532; L. 1914, ch. 352.*]

The above section exempts from attachment wages of less than \$12 per week. Execution ceases to be a lien when the judgment debtor's wages are reduced to an amount less than \$12 a week: *Duffy v. Morrissey*, 82 Misc. 149. For reference to a similar case of reduction of wages below \$12, with judgment, however, for plaintiff, see *Keve v. Columbia Kid Hair Curlers Manufacturing Co.*, 159 App. Div.

738; 161 App. Div. 918. Section 1879 of the Code of Civil Procedure also exempts from execution on judgment creditor's action "the earnings of the judgment debtor for his personal services, rendered within sixty days next before the commencement of the action, where it is made to appear, by his oath, or otherwise that those earnings are necessary for the use of a family, wholly or partly supported by his labor."

This section applies to state employees: See section 2-a of the State Finance Law, which provides also for semi-monthly pay for such employees and which was added in 1910, p. 227, *post*. Prior to the addition of this section to the Finance Law, the garnishee law had been held not to apply to state employees: *Osterhoudt v. Stade*, 133 App. Div. 83.

The exclusive remedy for refusal of the Comptroller of New York City to pay upon presentation of an execution against the salary of a municipal employee is a personal action against the Comptroller: *Matter of Pratt*, 158 App. Div. 695.

TAKING SECURITY FOR USURIOUS LOANS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 2400. Taking security upon certain property for usurious loans.—A person who takes security, upon any household furniture, sewing machines, plate or silverware in actual use, tools or implements of trade, wearing apparel or jewelry, for a loan or forbearance of money, or for the use or sale of his personal credit, conditioned upon the payment of a greater rate than six per centum per annum or, who as security for such loan, use or sale of personal credit as aforesaid, makes a pretended purchase of such property from any person, upon the like condition, and permits the pledger to retain the possession thereof is guilty of a misdemeanor.

ASSIGNMENT OF WAGES

[There are two statutes dealing with assignment of wages for loans. One is section 42 of the Personal Property Law which is of general application and is reproduced below. The other is L. 1914, ch. 518, which governs small loan companies and brokers, and is here given in part. See also L. 1914, ch. 369, § 347. The provisions of article 5-a of the General Business Law upon the subject have been repealed by L. 1914, chs. 369 and 518.]

PERSONAL PROPERTY LAW, CHAPTER 41 OF THE CONSOLIDATED LAWS

§ 42. Regulating loans of money on salaries.—1. Any person or persons, firm, corporation or company, who shall after the passage of this act, make to any employee an advance of money, or loan, on account of salary or wages due or to be earned in the future by such individual, upon an assignment or note covering such loans or advances, shall not acquire any right to collect or attach the same while in the possession or control of the employer, unless such note or assignment is dated on the same day on which such loan is actually made, and unless within a period of three days after such loan and assignment or note are actually made the party making such loan or loans and taking such assignment or notes shall have filed with the employer or employers of the individual or individuals so assigning his present or prospective salary or wages, a duly authenticated copy of such agreement or assignment or notes under which the claim is made. The day of making a loan or advance within the meaning of this act shall be deemed to be the day when the money is delivered to the borrower, and the subsequent execution of an instrument by virtue of a power of attorney shall not be deemed to affect the time of the actual making of such loan or advance. [Subd. 1 am'd by L. 1911, ch. 626.]

2. No action shall be maintained in any of the courts of this state, brought by the holder of any such contract, assignment or notes, given by an employee for moneys loaned on account of salary or wages, in which it is sought to charge in any manner the employer or employers, unless a copy of such agreement, assignment or notes, together with a notice of lien, was duly filed with the employer or employers of the person making such agreement, assignment or notes, by the person or persons, corporation or company making said loan within three days after the said loan was actually made and the said agreement, assignment or notes were given as provided in the previous section. [*Subd. 2 am'd by L. 1911, ch. 626.*]

3. Every person, firm or corporation engaged in or seeking to engage in the business of loaning money upon security of an assignment of salary or wages either earned or to be earned shall, on or before the first day of July next ensuing the passage of this act, file with the clerk of the county in which said person, firm or corporation has its place of business or transacts business a statement under oath containing the name and residence of the individual; or in case of a firm, the names and residences of the partners; or in the case of a corporation, the names and residences of the officers and directors, managers or trustees of such corporation; and the place or places where said business is transacted by such an individual, firm or corporation. After July the first next ensuing the passage of this act it shall be unlawful to engage in the business of loaning money in the manner set forth in this act without, prior to engaging in such business, filing a statement as provided in this act. [*Subd. 3 added by L. 1911, ch. 626.*]

4. The several county clerks of this state shall keep an alphabetical index of all persons, firms or corporations filing certificates provided for herein, and for the indexing and filing of such certificates, they shall receive a fee of twenty-five cents. A copy of such certificate, duly certified to by the county clerk in whose office the same was filed, shall be presumptive evidence in all courts of law in this state of the facts therein contained. [*Subd. 4 added by L. 1911, ch. 626.*]

5. After the passage of this act, no persons shall directly or indirectly receive or accept for the use and sale of his personal credit or for making any advance or loan of money, either wholly or partly in anticipation of salary or wages due or to be earned, a greater sum than at the rate of eighteen per centum per annum on the amount of such loan or advance, either as a bonus, interest or otherwise, or under the guise of a charge for investigating the status of a person applying for such loan or advance, drawing of papers or other service in connection with such loan or advance, except such charges as are now permitted by section three hundred and eighty of chapter twenty-five of the laws of nineteen hundred and nine, known as the "general business law." [*Subd. 5 added by L. 1911, ch. 626.*]

6. Every person, firm, corporation, director, agent, officer or member thereof who shall violate any provision of this act, directly or indirectly, or assent to such violation, shall be guilty of a misdemeanor. [*Subd. 6 added by L. 1911, ch. 626.*]

See also § 13 of the Labor Law, p. 16, *ante*.

CHAPTER 518 OF THE LAWS OF 1914*

Section 1. Supervisor of personal loans; salary.—In addition to the three deputies now authorized by law, the superintendent of banks shall appoint a fourth deputy, to be known as supervisor of personal loans. His salary shall be five thousand dollars per annum.

§ 3. Duties of supervisor.—The supervisor, subject to the general direction and control of the superintendent, shall exercise the powers conferred and perform the duties imposed upon him by this act. He shall, from time to time, prescribe rules and regulations with regard to the conduct of the business of personal loan companies and personal loan brokers. He shall annually, on or before the first Wednesday of January, transmit to the superintendent a report to the legislature of his activities, with such recommendations and suggestions as he may deem necessary.

§ 14. General powers of personal loan company or broker.—Every personal loan company shall have the powers conferred by the general corporation law and the business corporations law, including the powers to make loans in its discretion at the legal rate of interest, and every such company and every personal loan broker, subject to the limitations contained in this act, may, when authorized by the supervisor,

2. Make small loans to necessitous borrowers upon any of the following securities:

(c) An assignment or order for the payment of salary or wages by the borrower or another person, subject to the provisions of this act.

§ 15. Restrictions upon amount of loans, interest and charges.—Every personal loan company and personal loan broker shall be subject to the following restrictions upon the making of loans and on charges for interest and services in connection therewith:

1. No loan made under subdivisions one and two of section fourteen of this act shall exceed two hundred dollars, nor shall any person owe such company or loan broker more than two hundred dollars for principal at any one time;

2. Interest on loans made as a pawnbroker shall not exceed three per centum per month, and no charge of any kind shall be made by such company or broker when acting as a pawnbroker;

3. Interest on loans made as provided in subdivision two of section fourteen of this act shall not be charged at a rate to exceed two per centum per month;

4. Interest shall not be charged or collected in advance and shall be computed only on unpaid balances;

5. For a loan exceeding fifty dollars there may be made, except in case of loan made as pawnbroker, a charge of not more than two dollars for

* For parallel provisions compare Banking Law, L. 1914, ch. 369, art. 9, §§ 340-371.

Personal loan companies and brokers are defined by § 2 of the Banking Law and further governed by general and special provisions of articles 1, 2, 12 and 22 of the Banking Law.

examination or investigation of the property mortgaged or investigation of the character and circumstances of the borrower, endorser or surety, and for all other expenses including the drawing and filing of necessary papers. If the loan be fifty dollars or less such charge shall not be more than one dollar. No such charge shall be made on any loan or renewal thereof oftener than once in each period of twelve months.

6. No such charge shall be imposed upon any one borrower for any new or additional loan made within three months after any such charge has been imposed;

7. No charge whatsoever shall be made unless or until a loan shall have been made as a result of an examination;

8. No charge shall be made for the collection of debts except the legal costs in actions to enforce the security or upon the entry of judgment.

§ 16. Restrictions on methods of making and paying loans.—Every personal loan company and personal loan broker shall:

1. Upon repayment of the loan in full, mark indelibly in the presence of the borrower every paper signed by him with the word "paid" or "canceled" and discharge any mortgages, restore any pledges, return any notes, and cancel any assignments given by the borrower as security;

2. Furnish the borrower at the time the loan is made a statement in the English language showing in clear and distinct terms the amount of the loan, the date of the loan, the security of the loan, the person to whom the loan is made, the name of the lender and the amount and rate of interest charged. Upon such statement there shall be printed in English a copy of section fifteen of this act;

3. Give to the borrower a plain and complete receipt for all payments made on account of the loan at the time such payments are made, and shall not take any confession of judgment, any power of attorney or any instrument that does not state the actual amount of the loan in question, the time for which it is made and the rate of interest, or any instrument in which blanks are left to be filled after execution;

4. Take every mortgage, note, assignment, agreement or contract, in connection with such business in the name of the company or in the name of the individual broker, with the addition in the case of such individual of the descriptive words "personal loan broker."

§ 17. Restrictions on assignment of wages or salary.—An assignment or order for the payment of future salary or wages given as security for a loan shall be valid for a period not exceeding one year from the making of such assignment or order, and a sum not exceeding ten per centum of the borrower's salary or wages shall be collectible therefrom under such an assignment or order at the time of each payment of salary or wages, if the amount of the loan shall not have been paid. Such assignment or order shall not be subject to the provisions of section forty-two of the personal property law. If such assignment or order be made by a married man or woman living at the time the assignment or order is made, or at any time within five months prior thereto, with the wife or husband, as the case may be, the assignment or order shall be accompanied by the written assent of the wife or the husband of the assignor, or the assignment or order shall be invalid.

* * * * *

§ 26. Orders of supervisor to delinquent personal loan companies or brokers.

— 1. To discontinue unlawful or unsafe practices. Whenever it shall appear to the supervisor that any personal loan company or broker to which this act is applicable has violated the certificate of authorization or any law or regulation or is conducting its business in an unauthorized or unsafe manner, he may issue an order directing the discontinuance of such unauthorized or unsafe practices and require the delinquent to appear before him at a time fixed in the order to explain such practices.

* * * * *

§ 30. Investigations by supervisor.—The supervisor shall have power to investigate all violations or alleged violations of this act, that come to his attention, shall make all reasonable efforts to discover the same and shall notify the proper prosecuting officer whenever he has reasonable grounds to believe that a violation has occurred. He shall act as complainant in prosecutions under this act and shall otherwise assist in the prosecution of violators thereof.

* * * * *

§ 32. Penalty for collection of illegal interest or charges.—No person or corporation other than persons or corporations transacting business pursuant to the provisions of this act, shall directly or indirectly charge or receive any interest, discount or consideration greater than the legal rate of interest upon the loan, use or forbearance of money, goods or things in action of the value of two hundred dollars or less, or upon the loan, use or sale of personal credit in any wise, where there is taken for such loan, use or sale of personal credit any security upon any household furniture, apparatus or appliances, sewing machine, plate or silver ware in actual use, tools or implements of trade, wearing apparel or jewelry.

* * * * *

Any person, and the several officers of any corporation, who shall violate the foregoing prohibition, shall be guilty of a misdemeanor, and upon proof of such fact the debt shall be discharged and the security shall be void. But this section shall not apply to licensed pawnbrokers, making loans upon the actual and permanent deposit of personal property as security; nor shall this section affect the validity or legality of any loan of money or credit exceeding two hundred dollars in amount.

* * * * *

ORDINARY EXEMPTIONS NOT VALID AGAINST WAGE DEBTS

LAWS OF 1902, CHAPTER 580

AN ACT in relation to the municipal court of the city of New York, its officers and marshals.

§ 274. Judgment in favor of wage earners.—In an action, brought in the municipal court, by a journeyman, laborer, or other employee whose employment answered to the general description of wage earner, for services rendered or wages earned in such capacity, if the plaintiff recovers a judgment for a sum not exceeding fifty dollars, exclusive of costs, and the action shall have been brought within two months after the cause of action accrued, no property of the defendant is exempt from levy and sale by virtue of an execution against property, issued thereupon; and, if such an execution is returned wholly or partly unsatisfied, the clerk must, upon the application of the

plaintiff, issue an execution against the person of the defendant for the sum remaining uncollected, if the indorsement required by this act to the effect that defendant was liable to arrest was complied with. A defendant arrested by virtue of an execution so issued against his person, must be actually confined in the jail, and is not entitled to the liberties thereof; but he must be discharged after having been so confined for fifteen days. After his discharge another execution against his person cannot be issued upon the judgment, but the judgment creditor may enforce the judgment against property as if the execution, from which the judgment debtor is discharged, has been returned, without his being taken. [*As am'd by L. 1907, ch. 425.*]

MAKING EMPLOYEES PREFERRED CREDITORS

DEBTOR AND CREDITOR LAW, CHAPTER 12 OF THE CONSOLIDATED LAWS

§ 22. Wages and preferred claims.—In all distribution of assets under all assignments made in pursuance of this article, the wages or salaries actually owing to the employees of the assignor or assignors at the time of the execution of the assignment for services rendered within three months prior to the execution of the assignment, not exceeding three hundred dollars to each employee, shall be preferred before any other debt; and should the assets of the assignor or assignors not be sufficient to pay in full all the claims preferred, pursuant to this section, they shall be applied to the payment of the same pro rata to the amount of each such claim. [*As renumbered and am'd by L. 1914, ch. 360, § 8.*]

Formerly § 27.

LIABILITY OF STOCKHOLDERS FOR WAGE DEBTS

STOCK CORPORATION LAW, CHAPTER 59 OF THE CONSOLIDATED LAWS

§ 56. Liabilities of stockholders.—Every holder of capital stock not fully paid, in any stock corporation, shall be personally liable to its creditors, to an amount equal to the amount unpaid on the stock held by him for debts of the corporation contracted while such stock was held by him. As to existing corporations the liability imposed by this section shall be in lieu of the liability imposed upon stockholders of any existing corporation, under any general or special law, excepting laws relating to moneyed corporations, and corporations and associations for banking purposes, on account of any indebtedness hereafter contracted or any stock hereafter issued; but nothing in this section contained shall create or increase any liability of stockholders of any existing corporation under any general or special law.

§ 57. Liabilities of stockholders to laborers, servants or employees.—The stockholders of every stock corporation shall jointly and severally be personally liable for all debts due and owing to any of its laborers, servants or employees other than contractors, for services performed by them for such corporation. Before such laborer, servant or employee shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services, that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services.

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§ 58. Non-liability in certain cases.—No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof and shall be liable as stockholder, and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in the like manner and to the same extent as the testator or intestate, or the ward or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

**LIABILITY OF RAILROAD CORPORATIONS TO EMPLOYEES OF CONTRACTORS
FOR WAGE DEBTS**

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 50. Liability of corporation to employees of contractor.—An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the service of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due, the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he can not be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

See further Lien Law, § 6, "Liens for labor on railroad"; also § 145 of the Canal Law providing security for wages of laborers on canals, p. 237, *post*.

Laborers employed by sub-contractors are protected by this act: 42 Hun 53.

NO COURT FEES REQUIRED IN CERTAIN SUITS FOR WAGES

LAWS OF 1902, CHAPTER 580

AN ACT in relation to the municipal court of the city of New York, its officers and marshals.

§ 44. Where employee is party.—When an action is brought by an employee against an employer for services performed by such employee, male or female, the clerk of the said municipal court in the district in which the action is brought, shall issue a free summons when the plaintiff's demand is

less than fifty dollars and the plaintiff is a resident of the city of New York, and proof by the plaintiff's own affidavit that he has a good and meritorious cause of action and of the nature of such action and of said plaintiff's residence, and whether previous application therefor has been made, shall be duly presented to and filed with the clerk of the municipal court where such action shall be brought and he shall not demand or receive any fee whatsoever from the plaintiff or his agents or attorneys in such action, unless the plaintiff shall demand a trial jury, in which case the plaintiff must pay to the clerk of the municipal court where such action shall be pending the sum of four dollars and fifty cents.

§ 340. Costs in action by working woman.—In an action brought to recover a sum of money for wages earned by a female employee, other than a domestic servant; or for material furnished by such an employee, in the course of her employment, or in or about the subject-matter thereof, or for both, the plaintiff, if entitled to costs, may, in the discretion of the court, be allowed the sum of ten dollars as costs, in addition to the costs allowed in this court, unless the amount of damages recovered is less than ten dollars; in which case, the plaintiff may, in the discretion of the court, be allowed the sum of five dollars as such additional costs. When the employee is the plaintiff in such an action, she is entitled upon a settlement thereof, to the full amount of costs, which she would have recovered, if judgment had been rendered in her favor, for the sum received by her upon the settlement. [*As am'd by L. 1912, ch. 468.*]

§ 348. Employee's action; no fees.—When the action is brought by an employee against an employer for services performed by such employee, male or female, the clerks of this court shall not demand or receive any fees whatsoever from the plaintiff or his agents or attorneys in such action, if the plaintiff shall present proof by his own affidavit that his demand is less than fifty dollars, that he is a resident of the city of New York, that he has a good and meritorious cause of action against the defendant, and the nature thereof; that he has made either a written or a personal demand upon the defendant or his agent or representative, for payment thereof, and that payment was refused. Except that if the plaintiff shall demand a trial by jury, he must pay to the clerk the fees therefor prescribed in this act.

Sec. 274 of the Municipal Code provides for body executions against employers whose property is insufficient to satisfy judgments in wage suits. See "Ordinary exemptions not valid against wage debts," p. 222, *ante*.

MARRIED WOMAN'S RIGHT OF ACTION FOR WAGES, ETC.

DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS

§ 60. Married woman's right of action for wages.—A married woman shall have a cause of action in her own sole and separate right for all wages, salary, profits, compensation or other remuneration for which she may render work, labor or services, or which may be derived from any trade, business or occupation carried on by her, and her husband shall have no right of action therefor unless she or he with her knowledge and consent has otherwise expressly agreed with the person obligated to pay such wages, salary, profits, compensation or other remuneration. In any action or proceeding in which a married woman or her husband shall seek to recover wages, salary,

profits, compensation or other remuneration for which such married woman has rendered work, labor or services or which was derived from any trade, business or occupation carried on by her or in which the loss of such wages, salary, profits, compensation or other remuneration shall be an item of damage claimed by a married woman or her husband, the presumption of law in all such cases shall be that such married woman is alone entitled thereto, unless the contrary expressly appears. This section shall not affect any right, cause of action or defense existing prior to May seventeenth, nineteen hundred and five.

PUBLIC WORK AND CONTRACTS

[Besides sections 8 and 14 of the Labor Law, *ante*, there is on the statute books a large body of laws for the regulation of wages, hours, etc., of persons employed on public work. Of this legislation only a few examples can be reproduced in this compilation. In addition to the statutes respecting employees of state prisons and armories, the Insanity Law (ch. 27 of the Consolidated Laws) contains an extremely detailed schedule of wages and salaries (*cf.* Report of the Commissioner of Labor, 1904, p. 105). Of the numerous laws fixing the terms of employment of municipal employees, again, only one example is here printed — that of the street cleaners of New York City. Nearly every city charter contains provisions as to the hours of work, compensation, etc., of policemen, firemen, and other employees, while the larger cities have established, through action of the Legislature, retirement funds or service pensions. An example of the latter may be seen in the provision for street cleaners' pensions in New York City given below. Such privileges are deemed to counterbalance the loss of certain constitutional rights upon entrance in the public service; firemen, for example, having no right to become members of an association that has for its object the influencing of legislation (*People ex rel. Clifford v. Scannell*, 74 App. Div. 406). The validity of this legislation has never been successfully challenged, so far as it relates to direct employment by public authorities. Public work done by contract, however, has been distinguished by the courts from work done by the employees of public authorities, but the amendment of the Constitution of 1905 brought such work under the authority of legislative enactment.]

EMPOWERING THE LEGISLATURE TO REGULATE THE CONDITIONS OF EMPLOYMENT ON PUBLIC WORK

CONSTITUTION OF THE STATE OF NEW YORK, ARTICLE XII

Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations; and the Legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State, or by any contractor or sub-contractor performing work, labor or services for the State, or for any county, city, town, village or other civil division thereof. [*As amended in 1905.*]

LABORERS EMPLOYED IN THE STATE SERVICE

CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS

§ 10. Rules for the classified state service. * * * No examination or registration shall be required of persons to be employed as laborers in the state service. * * *

Compare Civil Service Law, § 18, p. 229, *post*, requiring registration of laborers for *municipal* employment.

SEMI-MONTHLY PAYMENT OF WAGES TO STATE EMPLOYEES

STATE FINANCE LAW, CHAPTER 56 OF THE CONSOLIDATED LAWS

§ 2-a. The salaries of all officers of the state, and the wages of all employees thereof shall be due from and payable by the state twice each

month, on the first and sixteenth days thereof, except where such days fall upon Sunday or a legal holiday when such payments shall be made upon the succeeding business day. Said salaries and wages shall be subject to all the provisions of section thirteen hundred and ninety-one of the code of civil procedure applicable to any wages, debts, earnings or salary, as if the state and the said wages and salary due and payable by it had been particularly designated therein. The provisions of this section shall be deemed to supersede any other provision of this chapter or of any general or special law inconsistent herewith. [Added by L. 1910, ch. 317.]

LABOR ON STATE BUILDINGS OR PLANTS

PUBLIC BUILDINGS LAW, CHAPTER 44 OF THE CONSOLIDATED LAWS

§ 18. **Manner of doing work or acquiring material.**—The work of erection, alteration, repair or improvement of any building or plant may be done by the employment of inmate or outside labor or both and by the purchase of materials in the open market whenever in the opinion of the state architect such a course shall be deemed advantageous to the state, and only upon plans and specifications prepared by him, but no compensation shall be allowed for the employment of inmate labor. [Added by L. 1914, ch. 111.]

FIXING THE COMPENSATION OF EMPLOYEES OF STATE PRISONS

PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS

§ 114. **Compensation of other officers.**—The superintendent of state prisons shall, from time to time, prescribe the compensation of the other officers of said prisons, but the compensation so fixed and prescribed for the following officers in each of such prisons shall not in any case exceed the rate of an annual salary, as follows: To the principal keeper, two thousand dollars; to the kitchen-keeper, store-keeper, hall-keeper, yard-keeper and sergeant of the guard, each fifteen hundred dollars; to the state detective at Sing Sing prison, eighteen hundred dollars. The compensation of guards and attendants in prison hospitals shall be as follows: For the first year's service, eight hundred dollars; for the second year's service, nine hundred dollars; for the third year's service, ten hundred dollars; for the fourth year's service, eleven hundred dollars; for the fifth year's service, and thereafter, twelve hundred dollars. [As am'd by L. 1912, ch. 50; and L. 1914, ch. 189.]

LABORERS AND MECHANICS IN STATE ARMORIES

MILITARY LAW, CHAPTER 36 OF THE CONSOLIDATED LAWS

§ 189. **Compensation of employees in armories.**—The persons appointed under the provisions of the two preceding sections shall receive compensation for the time actually and necessarily employed in their duties, to be fixed by the officer appointing such persons as follows: When employed in armories or arsenals, armorers, janitors, electricians and engineers not to exceed four dollars per day. An armorer, janitor, electrician, engineer or laborer appointed by the commanding officer of an organization located in a city who under orders duly issued by such officer performs the whole or any part of his duties outside the limits of such city shall receive the compensation provided for an armorer, janitor, electrician, engineer or laborer employed in an armory, located in such city; laborers not to exceed three dollars

per day. An armorer employed in an arsenal or armory having two hundred thousand or more square feet of floor surface and occupied by a regiment may in the discretion of the officer appointing, receive compensation not to exceed five dollars per day. The chief engineer in an armory having over two hundred thousand square feet of floor surface occupied by a regiment and lighted by electricity produced by machinery operated within such armory, may receive not to exceed five dollars per day. The compensation, as certified to by the officer appointing such persons, under the provisions of the two preceding sections, shall be paid semi-monthly upon the certificate of such officer, and shall in counties outside the city of New York be a charge upon the counties constituting the brigade district and within the city of New York upon the county in which such armory or arsenal is situated; and shall be levied, collected and paid in the same manner as other brigade district or county charges are levied, collected and paid. A commissioned officer in active service shall not be eligible for appointment to, and shall not hold the position of armorer, janitor, electrician, engineer or laborer in any armory or arsenal. The appointing officer shall grant to each employee a vacation of fourteen days per year with pay. [As am'd by L. 1911, ch. 102; L. 1912, ch. 242; and L. 1913, ch. 558.]

REGISTRATION OF LABORERS FOR MUNICIPAL EMPLOYMENT

THE CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS

§ 18. The labor class in cities.—The labor class in cities shall include unskilled laborers and such skilled laborers as are not included in the competitive class or the noncompetitive class. Vacancies in the labor class in cities shall be filled by appointment from lists of applicants registered by the municipal commissions. Preference in employment from such lists shall be given according to date of application. There shall be separate lists of applicants for different kinds of labor or employment, and the commissions may establish separate labor lists for various institutions and departments. Where the labor service of any department or institution extends to separate localities, the commissions may provide separate registration lists for each district or locality. The commissions shall require an applicant for registration for the labor service to furnish such evidence or pass such examination as they may deem proper with respect to his age, residence, physical condition, ability to labor, skill, capacity and experience in the trade or employment for which he applies.

Veterans of the Civil War, who, under the terms of the Constitution (Art. V, § 9) are entitled to preference in the civil service "without regard to their standing," are to be placed at the head of registration lists as though their applications had been filed prior to those of persons not entitled to preference: § 21 of the Civil Service Law.

ASSIGNMENT OF EARNINGS BY MUNICIPAL EMPLOYEES

GENERAL MUNICIPAL LAW, CHAPTER 24 OF THE CONSOLIDATED LAWS

§ 86-a. Salary or earnings of municipal officer or employee.—No assignment of, or power of attorney to collect or other instrument affecting, the whole or any part of his salary or earnings by an officer or employee of any municipal corporation, or subdivision thereof, unless approved in writing by the head of the department, board, body or office in which such officer or

employee is employed, shall in any way operate to prevent the payment of such salary or earnings directly to such officer or employee. In the event of the payment of such salary or earnings directly to such officer or employee, notwithstanding the existence of an assignment of, or power of attorney to collect or other instrument affecting, the whole or part thereof, not approved by the head of the department, board, body or office in which such officer or employee is employed, no person shall have any cause of action therefor against such municipal corporation or subdivision thereof for the recovery of any moneys by virtue of such unapproved assignment, power of attorney to collect or other instrument. [Added by L. 1914, ch. 164.]

FIXING WAGES AND SALARIES OF EMPLOYEES OF THE STREET CLEANING DEPARTMENT, NEW YORK CITY

THE REVISED CHARTER (LAWS OF 1901, CHAPTER 466)

§ 536. The members of the department of street cleaning shall be divided into two general classes, to be designated, respectively, the clerical force and the uniformed force. The clerical force shall consist of a chief clerk, medical examiners, not exceeding three in number, and such and so many clerks and messengers as the commissioner of street cleaning shall deem necessary. The uniformed force shall be appointed by the commissioner of street cleaning, and shall consist of one general superintendent, one assistant superintendent, one superintendent of final disposition, one assistant superintendent of final disposition, district superintendents, not exceeding twenty-one in number; time collectors, not exceeding eight in number; section foremen, not exceeding one hundred and twenty-five in number; dump inspectors, not exceeding forty-three in number; assistant dump inspectors, not exceeding forty-three in number; sweepers, not exceeding thirty-one hundred in number; dump boardmen, not exceeding forty-three in number; drivers, not exceeding sixteen hundred in number; stable foremen, not exceeding twenty-one in number; assistant stable foremen, not exceeding twenty-one in number; hostlers, not exceeding one head hostler to each stable and additional hostlers not exceeding one for each ten horses; a master mechanic and such and so many mechanics and helpers as may be necessary. The commissioner of street cleaning shall have power and is hereby authorized to increase the said uniformed force, from time to time, by adding to the number of sweepers, drivers and hostlers provided the board of estimate and apportionment and the board of aldermen shall have previously made an appropriation for the purpose of permitting such increase. The annual salaries and compensations of the members of the uniformed force of the department of street cleaning shall not exceed the following: Of the general superintendent, three thousand dollars; of the assistant superintendent, two thousand five hundred dollars; of the master mechanic, one thousand eight hundred dollars; of the superintendent of final disposition, two thousand dollars; of the assistant superintendent of final disposition, one thousand five hundred dollars; of the district superintendents, one thousand eight hundred dollars each; of the time collectors, one thousand two hundred dollars each; of the section foremen, one thousand two hundred dollars each; of sweepers or drivers acting as assistants to the section or stable foremen, nine hundred dollars each; of the dump in-

spectors, one thousand two hundred dollars each; of the assistant dump inspectors, nine hundred dollars each; of the dump boardmen, seven hundred and twenty dollars each; of the sweepers, seven hundred and twenty dollars each; of the drivers, seven hundred and twenty dollars each; of the stable foremen, one thousand three hundred dollars each; of the assistant stable foremen, one thousand dollars each; of the hostlers, seven hundred and twenty dollars each. Hostlers may receive extra pay for Sundays if an appropriation therefor is made by the board of estimate and apportionment. The members of the department of street cleaning shall be employed at all such times and during such hours and upon such duties as the commissioner of street cleaning shall direct for the purpose of an effective performance of the work devolving upon the said department. In case of a snow fall or other emergency, the commissioner of street cleaning or the deputy commissioner may hire and employ temporarily such and so many men, carts and horses as shall be rendered necessary by such emergency, forthwith reporting such action with the full particulars thereof to the mayor, but no man, cart or horse, shall be so hired or employed for a longer period than three days, except that any person registered or eligible to appointment as a driver, or as a sweeper, may be temporarily employed at any time as an extra driver or sweeper to fill the place of a driver or sweeper who is suspended or temporarily absent from duty from any cause. The rate of compensation for such extra drivers or sweepers shall be two dollars per day, and the driver or sweeper whose place is so filled shall not receive any compensation for the time during which he is so absent from duty or his place is so filled, unless such injury or illness was caused by service in the department. The service of any person employed, and of carts and horses hired pursuant to this section, shall be paid for in full and directly by the department of street cleaning, at such times as may be prescribed by such department; and they, and each of them, shall be employed and hired directly by the department of street cleaning and not through contractors or other persons, unless the commissioner himself shall determine that this requirement must for proper action in a particular instance be dispensed with. Nothing herein contained shall affect any existing contracts made with or by the department of street cleaning in regard to the cleaning of Broadway below Fourteenth street in said city or the renewal thereof, if deemed best by the commissioner of said department. Neither the commissioner of street cleaning, nor any deputy commissioner of street cleaning, nor any member of the uniformed force of the street cleaning department, shall be permitted to contribute any moneys, directly or indirectly, to any political fund, or intended to affect legislation for or on behalf of the street cleaning department or any member thereof.

RELIEF AND PENSION FUND FOR NEW YORK CITY STREET CLEANERS

THE REVISED CHARTER (LAWS OF 1901, CHAPTER 466)

§ 548. There shall be a relief and pension fund of the department of street cleaning which shall be made up, administered and used for the benefit of the members of the clerical and uniformed forces of the department of street cleaning as defined by section five hundred and thirty-six of the charter, and the incumbents of such other positions in said department as have been

created and not specified in section five hundred and thirty-six of the charter. [Added by L. 1911, ch. 839.]

§ 549. The relief and pension fund of the department of street cleaning of the city of New York shall consist of the following moneys and the interest and income thereof:

First. A sum of money equal to, but not greater than, three per centum of the weekly or monthly pay, salary or compensation of each such member of the department of street cleaning, which sum shall be deducted, weekly or monthly, as the case may be, by the comptroller from the pay, salary or compensation, of each and every such member of the department of street cleaning, and the said comptroller is hereby authorized, empowered and directed to deduct said sum of money as aforesaid, and to pay the same monthly to the treasurer and trustee of the relief and pension fund of the department of street cleaning.

Second. All money, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any such member of the department of street cleaning on account of fines, suspensions or absence from any cause, loss of time, sickness or other disability, physical or mental, to be paid monthly by the comptroller to the treasurer and trustee of said pension fund, except in the case of a sweeper, driver, hostler, stableman or other employee who may have been sick or absent from any cause, and whose position has been filled by an extra sweeper, driver, stableman or other temporary employee, to whom compensation has been paid.

Third. All moneys received for the privilege of scow trimming or assorting of refuse at the various dumps in the boroughs of Manhattan, Brooklyn or Bronx, or at any other place where refuse may be disposed of, excepting in so far as the provisions of any contract now in force between the city of New York and contractors give such privilege to the contractors. All contracts hereafter made shall stipulate that the proceeds from such trimming or assorting of refuse shall be paid by the comptroller to the trustee and treasurer of said pension fund.

Fourth. All moneys received from the sale of steam or house ashes, garbage and refuse, collected by the department of street cleaning, and any moneys that may be received for the disposal of such steam or house ashes, garbage or refuse.

Fifth. All proceeds of sales of condemned horses or other property of said department, excepting real property; and so much of the proceeds of sales of unharnessed trucks, carts, wagons and vehicles of any description, and of all boxes, barrels, bales or other merchandise, or other movable property, found in any public street or place and removed therefrom by the commissioner of street cleaning under any provision of law authorizing said commissioner to remove and to sell such incumbrances, as exceeds the necessary expense of the sales of such condemned property or unredeemed incumbrances and which is not under such provision of the law, payable to the lawful owner or owners of such incumbrances so sold, and all moneys collected for the release of merchandise, unharnessed vehicles or movable property removed as aforesaid.

Sixth. Any and all unexpended balances of amounts appropriated for the payment of salaries or compensation of such members of the department of

street cleaning remaining unexpended after the allowance of all claims payable therefrom. And the comptroller is hereby authorized to pay over such unexpended balances to the treasurer and trustee of said pension fund at any time after the expiration of the year for which such amounts were appropriated, after allowing sufficient to satisfy all the claims payable therefrom as aforesaid.

Seventh. All gifts or bequests which may be made to said fund or the commissioner of street cleaning as treasurer and trustee of said fund. [Section 549, added by L. 1911, ch. 839.]

§ 550. The commissioner of street cleaning shall be the trustee and treasurer of said relief and pension fund. He shall, before entering upon his duties as treasurer and trustee thereof, deliver to the comptroller a bond in the penal sum of seventy-five thousand dollars, to be approved by the comptroller, conditioned for the faithful discharge and performance of his duties as such treasurer and trustee. Compensation shall be made to the commissioner of street cleaning for the expense of procuring sureties for said bond, to be paid out of said pension fund. Said treasurer and trustee shall have charge of and administer said fund. He shall receive all moneys applicable to said fund, and, from time to time, shall invest such moneys, or any part thereof, in any manner allowed by law for investments by savings banks, as he shall deem beneficial to said fund; and he is empowered to make all necessary contracts and to conduct necessary and proper actions and proceedings in the premises, and to pay from said fund the relief or pensions granted in pursuance of this act. And he is authorized and empowered to establish, from time to time, such rules and regulations for the disposition and investment, preservation and administration of said pension fund as he may deem best. No payment whatever shall be allowed or made by said treasurer and trustee from said fund as reward, gratuity or compensation to any person for salary or service rendered to or for said treasurer and trustee, except payment of necessary legal expenses and compensation as aforesaid for the expenses of procuring sureties on said bond. The commissioner of street cleaning may employ the members of the clerical force in such clerical work as may be necessary for the care and administration of said fund as a part of their regular duties and without extra compensation. On or before the first day of February of each year the said treasurer and trustee shall make a verified report to the mayor containing a statement of the account of said fund under his control and of all receipts, investments and disbursements, on account of said fund, together with the name and residence of each beneficiary. There shall be an auditing committee consisting of three members of the department of street cleaning, to be appointed by the mayor. It shall be the duty of such auditing committee, on or before the first day of March in each year, to examine the condition of said relief and pension fund and to audit the accounts of said treasurer and trustee and to make report thereon to the mayor within thirty days thereafter. [Added by L. 1911, ch. 839.]

§ 551. The commissioner of street cleaning, as treasurer and trustee of said relief and pension fund, is hereby authorized and empowered to take and hold any and all gifts or bequests which may be made to such fund, and to transfer such gifts or bequests to his successor, together with all

other moneys or property belonging to said fund. [Added by L. 1911, ch. 839.]

§ 552. The commissioner of street cleaning shall have power in his discretion to retire and dismiss from membership in his department a member of the department of street cleaning as hereinafter provided; and he shall grant relief or a pension to such member so retired and dismissed from membership, and to the widows and orphans of members of said department who may be entitled to receive such relief or pension, to be paid from said relief or pension fund, in monthly instalments, as follows:

First. To any such member who, at any time after the passage of this act, while in the actual performance of duty, and without fault or misconduct on the part of such member, shall have become permanently disabled, physically or mentally, so as to be unfit to perform the duties required of such member, provided that such unfitness for duty has been certified to by a majority of the medical examiners of said department, the sum of twenty-five dollars per month.

Second. To the widow of any member of the department of street cleaning who, after the passage of this act, shall have been killed while in the actual performance of his duty, or shall have died from the effects of any injury received while in the actual performance of such duty, the sum of not more than three hundred dollars per annum; and to the widow of any member of such force who shall hereafter die and who shall have been ten years in the service in said department at the time of his death, or who shall have been retired on a pension, as hereinafter provided, if there shall be no child or children of such member under eighteen years of age, the sum of not more than two hundred dollars per annum, in the discretion of said treasurer and trustee; and if there be such child or children of such member under the age aforesaid, then such sum may be divided between such widow, child or children in such proportion and in such manner as the said treasurer and trustee may direct. The right of such widow to such pension shall cease and terminate at her death or remarriage; or if she shall have been guilty of conduct which in the opinion of said treasurer and trustee renders payment inexpedient.

Third. To any child or children under eighteen years of age of such member killed or dying as aforesaid, or dying after retirement leaving no widow, or if a widow, then after her death, a sum not exceeding two hundred dollars per annum to be paid as such treasurer and trustee shall direct until such child or children shall have attained the age of eighteen years or shall have married.

Fourth. To the widowed mother of any such member, who was the sole support of such mother, who shall die after the passage of this act, a sum not to exceed two hundred dollars per annum, to cease upon the death or remarriage of such widowed mother. [Section 552, added by L. 1911, ch. 839.]

§ 553. Any such member who has or shall have performed duty as such member for a period of ten years or upwards shall be relieved and dismissed from said force upon his or her own application, or by order of the commissioner, upon an examination by the medical examiners of said department, to be made at any time when so applied for or when so ordered, if a

majority of such medical examiners shall certify that such member is permanently disabled, physically or mentally, so as to be unfit for duty; and such member so relieved and dismissed from said force shall be paid from said fund in monthly instalments during his or her lifetime a sum not less than one-half of the annual salary or compensation of such member when he or she was so retired; and any such member who shall have performed duty on said force for a period of twenty years or upward, whether continuous or rendered during different periods, and who has reached the age of sixty years, may, upon the application of such member in writing, be relieved and dismissed from said force and service, and shall be paid from said fund in monthly instalments during his or her lifetime a sum not less than one-half of the annual salary or compensation of such member when so retired; provided, however, that no such member shall be so retired or granted a pension while there are charges of official misconduct pending against him or her. Pensions granted under this section shall be for the natural life of the pensioner and shall not be revoked, repealed or diminished. [Added by L. 1911, ch. 839.]

§ 554. The commissioner of street cleaning, as such treasurer and trustee, is authorized and empowered to make and enforce all such rules, orders and regulations as may be necessary to carry out the provisions of this act relative to pensions and may employ members of the department for such purpose so far as may be required. [Added by L. 1911, ch. 839.]

§ 555. The moneys or other property of the relief and pension fund of the department of street cleaning and all pensions or relief moneys granted and payable from said fund shall be, and the same are, exempt from levy and sale under execution, and from all processes or proceedings to enjoin payment, or to recover such moneys or property, by or on behalf of any creditor or other person having or asserting any claim against, or debt or liability of any person entitled to such pension or relief. [Added by L. 1911, ch. 839.]

§ 556. This act shall take effect October first, nineteen hundred and eleven, so far as it applies to the deduction by the comptroller of three per centum of the pay, salary or compensation of the members of the department of street cleaning, and to the collection and taking over by said treasurer and trustee of such other moneys as are provided by this act to be taken for such fund, and all such moneys shall be so taken and held for such purpose by said treasurer and trustee on and after said date. Provided, however, that no such deduction of such per centum shall be made by the comptroller from the pay, salary or compensation of any person who is or was a member of the department of street cleaning on or before September first, nineteen hundred and eleven, unless such member shall have given his or her consent in writing to the commissioner of street cleaning on or before that date that he or she agrees to abide by the provisions of this act and authorizes the comptroller of the city of New York to so deduct such per centum; and any such member who fails to give such written consent shall not be entitled to be or to become a beneficiary of said relief and pension fund; but such deduction of such per centum shall be made by the comptroller without such consent from the pay, salary or compensation of any person who shall

become a member of the department of street cleaning after September first, nineteen hundred and eleven, and all such persons shall be entitled to or become beneficiaries of said relief and pension fund without such written consent to such deduction. [*Added by L. 1911, ch. 839.*]

§ 557. No relief or pension shall be paid to any person under the provisions of this act, and no person shall be entitled to receive any of the benefits provided for in this act prior to January first, nineteen hundred and thirteen, excepting that relief and pensions granted under the provisions of this act shall be payable to and through members of the department who shall die or become disabled on and after September first, nineteen hundred and eleven, but the payment of such relief or pension shall be postponed until January first, nineteen hundred and thirteen, on which date the provisions of this act providing for the payment of relief or pensions shall take effect. [*Added by L. 1911, ch. 839.*]

PROHIBITING THE SUB-LETTING OF PUBLIC CONTRACTS

GENERAL MUNICIPAL LAW, CHAPTER 24 OF THE CONSOLIDATED LAWS

[*See also § 43 of State Finance Law, ch. 56 of the Consolidated Laws*]

§ 86. Contractors not to assign contracts with municipality without its consent.—A clause shall be inserted in all specifications or contracts hereafter made or awarded by any municipal corporation, or any public department or official thereof, prohibiting any contractor, to whom any contract shall be let, granted or awarded, as required by law, from assigning, transferring, conveying, subletting or otherwise disposing of the same, or of his right, title or interest therein, or his power to execute such contract to any other person, company or corporation, without the previous consent in writing of the department or official awarding the same.

If any contractor, to whom any contract is hereafter let, granted or awarded, as required by law, by any municipal corporation in the state, or by any public department or official thereof, shall, without the previous written consent specified in the first paragraph of this section, assign, transfer, convey, sublet, or otherwise dispose of the same, or his right, title or interest therein, or his power to execute such contract, to any other person, company or other corporation, the municipal corporation, public department, or official as the case may be, which let, made, granted or awarded said contract shall revoke and annul such contract, and the municipal corporation, public department or officer, as the case may be, shall be relieved and discharged from any and all liability and obligations growing out of said contract to such contractor, and to the person, company, or corporation to whom he shall assign, transfer, convey, sublet or otherwise dispose of the same, and said contractor, and his assignee, transferee, or sub-lessee, shall forfeit and lose all moneys, theretofore earned under said contract except so much as may be required to pay his employees; provided that nothing herein contained shall be construed to hinder, prevent or affect an assignment by such contractor for the benefit of his creditors, made pursuant to the statutes of this state.

**SECURING THE PAYMENT OF WAGES TO EMPLOYEES OF CONTRACTORS
UPON CANALS****CANAL LAW, CHAPTER 5 OF THE CONSOLIDATED LAWS**

§ 145. Security for payment of laborers.—The superintendent of public works or assistant superintendent having charge, shall also require and take from the contractor, a bond with at least two good and sufficient sureties, conditioned that such contractor will well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which shall be duly acknowledged and filed in the office of the clerk of the county wherein such contract or work is to be performed, and if partly in two or more counties, such bond or a certified copy thereof shall be filed in the clerk's office of each county.

Actions may be brought for a breach of such bond by any laborer not paid in accordance with its terms, and the commencement or maintenance of an action by one or more laborers thereon shall not be a bar to the commencement and maintenance of other actions thereon by other laborers. No action shall be maintained against the sureties unless brought within thirty days after the completion of the labor the payment of which is secured by the bond.

Laborers are those who perform labor on canals and do not include sub-contractors. (Swift v. Kingsley, 24 Barb. 541; McCluskey v. Cromwell, 11 N. Y. 593.)

**AUTHORIZING THE EIGHT HOUR DAY UPON RESERVOIR CONSTRUCTION IN
NEW YORK CITY****LAWS OF 1902, CHAPTER 588**

AN ACT relative to the powers of the aqueduct commissioners, provided for and holding office under and pursuant to the provisions of chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments.

Section 1. The aqueduct commissioners, provided for and holding office under and pursuant to the provisions of an act of the legislature of the state of New York, entitled "An act to provide new reservoirs, dams and a new aqueduct with the appurtenances thereto, for the purpose of supplying the city of New York with an increased supply of pure and wholesome water," said act being chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments, are hereby authorized and empowered to agree with any person, firm or corporation with whom they have contracted or may hereafter contract, upon such terms and conditions as shall in their judgment and discretion, be for the best interests of the city of New York, that eight hours shall constitute a day's work for all laborers employed by said person, firm or corporation in the performance of his or its contract and that no laborer employed in the performance of any such contract shall be required, permitted or allowed to work more than eight hours. No agreement made under the provisions of this act shall be valid or binding until the same has been approved by the board of estimate and apportionment of the city of New York.

PRISON LABOR *

OCCUPATION AND EMPLOYMENT OF CONVICTS

CONSTITUTION OF STATE OF NEW YORK, ARTICLE III

Section 29. The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

Trees raised by convicts under the supervision of the conservation commission and superintendent of prisons may be sold for private use in reforestation: Opinion of Attorney-General, October 11, 1911.

PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS

ARTICLE 7

Prison Labor

Section 170. Contracts prohibited.

171. Prisoners to be employed; products of labor of prisoners.
172. Labor of prisoners of first grade, how directed.
173. Labor of prisoners of second grade, how directed.
174. Labor of prisoners of third grade, how directed.
175. Prisoners employed for use of state, and divisions thereof.
176. No printing or photo-engraving to be done by prisoners for use of state.
177. Labor of prisoners in prisons, reformatories and penitentiaries.
178. Labor of prisoners in certain institutions.
179. Employment of convicts on public highways.
180. Persons interfering with convicts employed on highways guilty of misdemeanor.
181. Classification of industries; report as to industries.
182. Articles manufactured to be furnished to the state or division thereof.
183. Estimates of articles required to be furnished commission of prisons by officers.
184. Board of classification; prices to be fixed.
185. Earnings of prisoners.
186. Disposition of fines.
187. Disposition of moneys paid to prisoner for his labor.
188. Monthly statement of receipts and expenditures for prison industries.
189. Statement of machinery and materials required.
190. Machinery and materials for prison industries, how purchased.
191. Disposition of machinery on discontinuance of industry.
192. Purchases to be included in estimates.
193. Deposits by agent and warden in banks.
194. Violations of prison labor regulations.

§ 170. Contracts prohibited.—The superintendent of state prisons shall not, nor shall any other authority whatsoever, make any contract by which the

* See also article 18 of the Labor Law, p. 113, *ante*.

labor or time of any prisoner in any state prison, reformatory, penitentiary or jail in this state, or the product or profit of his work, shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation; except that the convicts in said penal institutions may work for, and the products of their labor may be disposed of to, the state or any political division thereof or for or to any public institution owned or managed and controlled by the state, or any political division thereof.

§ 171. Prisoners to be employed; products of labor of prisoners.—The superintendent of state prisons, the superintendents, managers and officials of all reformatories and penitentiaries in the state, shall, so far as practicable, cause all the prisoners in said institutions, who are physically capable thereof, to be employed at hard labor, for not to exceed eight hours of each day, other than Sundays and public holidays, but such hard labor shall be either for the purpose of production of supplies for said institutions, or for the state, or any political division thereof, or for any public institution owned or managed and controlled by the state, or any political division thereof; or for the purpose of industrial training and instruction, or partly for one, and partly for the other of such purposes.

§ 172. Labor of prisoners of first grade, how directed.—The labor of the prisoners of the first grade in each of said prisons, reformatories and penitentiaries, shall be directed with reference to fitting the prisoner to maintain himself by honest industry after his discharge from imprisonment, as the primary or sole object of such labor, and such prisoners of the first grade may be so employed at hard labor for industrial training and instruction solely, even though no useful or salable products result from their labor, but only in case such industrial training or instruction can be more effectively given in such manner. Otherwise, and so far as is consistent with the primary object of the labor of prisoners of the first grade as aforesaid, the labor of such prisoners shall be so directed as to produce the greatest amount of useful products, articles and supplies needed and used in the said institutions, and in the buildings and offices of the state, or those of any political division thereof, or in any public institution owned or managed and controlled by the state or any political division thereof, or said labor may be for the state, or any political division thereof.

§ 173. Labor of prisoners of second grade, how directed.—The labor of prisoners of the second grade in said prisons, reformatories and penitentiaries shall be directed primarily to labor for the state or any political division thereof, or to the production and manufacture of useful articles and supplies for said institutions, or for any public institution owned or managed and controlled by the state, or any political division thereof.

§ 174. Labor of prisoners of third grade, how directed.—The labor of prisoners of the third grade shall be directed to such exercise as shall tend to the preservation of health, or they shall be employed in labor for the state, or a political division thereof, or in the manufacture of such useful articles and supplies as are needed and used in the said institutions, and in the public institutions owned or managed and controlled by the state, or any political division thereof.

§ 175. Prisoners employed for use of state, and divisions thereof.—All convicts sentenced to state prisons, reformatories and penitentiaries in the state,

shall be employed for the state, or a political division thereof, or in productive industries for the benefit of the state, or the political divisions thereof, or for the use of public institutions owned or managed and controlled by the state, or the political divisions thereof, which shall be under rules and regulations for the distribution and diversification thereof, to be established by the state commission of prisons.

§ 176. No printing or photo-engraving to be done by prisoners for use of state.—No printing or photo-engraving shall be done in any state prison, penitentiary or reformatory for the state or any political division thereof, or for any public institution owned or managed and controlled by the state or any such political division, except such printing as may be required for or used in the penal and state charitable institutions, and the reports of the state commission of prisons and the superintendent of prisons, and all printing required in their offices.

§ 177. Labor of prisoners in prisons, reformatories and penitentiaries.—The labor of the convicts in the state prisons and reformatories in the state, after the necessary labor for and manufacture of all needed supplies, for said institutions, shall be primarily devoted to the state and the public buildings and institutions thereof, and the manufacture of supplies for the state, and public institutions thereof, and secondly to the political divisions of the state, and public institutions thereof; and the labor of the convicts in the penitentiaries, after the necessary labor for and manufacture of all needed supplies for the same, shall be primarily devoted to the counties, respectively, in which said penitentiaries are located, and the towns, cities and villages therein, and to the manufacture of supplies for the public institutions of the counties, or the political divisions thereof, and secondly to the state and the public institutions thereof.

§ 178. Labor of prisoners in certain institutions.—The state board of managers of reformatories, and the managing authorities of all the penitentiaries or other penal institutions in this state, are hereby authorized and directed to conduct the labor of prisoners therein, respectively, in like manner and under like restrictions, as labor is authorized by sections one hundred and seventy and one hundred and seventy-one of this article, to be conducted in state prisons.

§ 179. Employment of convicts on public highways.—The superintendent of state prisons may employ or cause to be employed the convicts confined in the state prisons in the repair of state and county highways at any place within the state upon request of the state commission of highways, the construction or improvement of state or county highways constructed or improved by any board of supervisors or town board under a contract with such commission of highways, upon request as provided in section one hundred and thirty-one of the highway law, and also in the improvement or repair of any other public highway. The expense of maintenance of such convicts while employed in repairing a state or county highway shall be borne by the state and paid by the state commission of highways, in the same manner as other expenses in repairing such highways.

The agent and warden of each prison may make such rules as he may deem necessary for the proper care, custody and control of such prisoners while so employed, subject to the approval of the superintendent of state prisons.

The agent and warden of each prison may designate, subject to the approval of the superintendent of state prisons, the highways and portions thereof upon which such labor shall be employed; and such portions so designated and approved, except portions of a state or county highway, shall be under his control during the time such construction, improvements or repairs are in progress, and the state highway commission shall fix the grade and width of the roadway of any such highway and direct the manner in which the work shall be done.

A state or county highway herein referred to is a state or county highway as defined in the highway law.

The superintendent of state prisons is hereby authorized to purchase any machinery, tools and materials necessary in such employment, except employment on a state or county highway. [*As am'd by L. 1914, ch. 60.*]

See also §§ 181, 320-a of the Highway Law, p. 243, *post*. A prison warden may not bid on a contract for highway construction, the labor to be performed by inmates of state prison: Opinion of Attorney-General, June 23, 1913.

§ 182. Articles manufactured to be furnished to the state or division thereof.—The superintendent of state prisons, and the superintendents of reformatories and penitentiaries, respectively, are authorized and directed to cause to be manufactured by the convicts in the prisons, reformatories and penitentiaries, such articles as are needed and used therein, and also such as are required by the state or political divisions thereof, and in the buildings, offices and public institutions owned or managed and controlled by the state, including articles and materials to be used in the erection of the buildings. All such articles manufactured in the state prisons, reformatories and penitentiaries, and not required for use therein, shall be of the styles, patterns, designs and qualities fixed by the board of classification, and may be furnished to the state, or to any political division thereof, or for or to any public institution owned or managed and controlled by the state, or any political division thereof, at and for such prices as shall be fixed and determined as hereinafter provided, upon the requisitions of the proper officials, trustees or managers thereof. No article so manufactured shall be purchased from any other source, for the state or public institutions of the state, or the political divisions thereof, unless said state commission of prisons shall certify that the same can not be furnished upon such requisition, and no claim therefor shall be audited or paid without such certificate.

This section requires the purchase of desks for use in public schools from penal institutions, if such institutions can furnish the desks: Opinion of Attorney-General, April 15, 1913.

By section 135-a of the General Municipal Law, added by L. 1913, ch. 341, supplies may be manufactured in the workshops of municipal hospitals for tuberculosis by inmates thereof and sold to any department of such municipality notwithstanding the provisions of above section.

§ 183. Estimates of articles required to be furnished commission of prisons by officers.—On or before October first in each year, the proper officials of the state, and the political divisions thereof, and of the institutions of the state, or political divisions thereof, shall report to the said commission of prisons estimates for the ensuing year of the amount of supplies of different kinds required to be purchased by them that can be furnished by the penal institutions in the state. The said commission is authorized to make regula-

tions for said reports, to provide for the manner in which requisitions shall be made for supplies, and to provide for the proper diversification of the industries in said penal institutions.

§ 184. Board of classification; prices to be fixed.—The fiscal supervisor of state charities, the state commission of prisons, and the superintendent of state prisons and the lunacy commission are hereby constituted a board to be known as the board of classification. Said board shall fix and determine the prices at which all labor performed, and all articles manufactured in the charitable institutions managed and controlled by the state and in the penal institutions in this state, and furnished to the state, or the political divisions thereof, or to the public institutions thereof, shall be furnished, which prices shall be uniform to all, except that the prices for goods or labor furnished by the penitentiaries to or for the county in which they are located, or the political divisions thereof, shall be fixed by the board of supervisors of such counties, except New York and Kings counties, in which the prices shall be fixed by the commissioners of charities and correction, respectively. The prices shall be as near the usual market price for such labor and supplies as possible. The state commission of prisons shall devise and furnish to all such institutions a proper form for such requisition, and the comptroller shall devise and furnish a proper system of accounts to be kept for all such transactions. It shall also be the duty of the board of classification to classify the buildings, offices and institutions owned or managed and controlled by the state, and it shall fix and determine the styles, patterns, designs and qualities of the articles to be manufactured for such buildings, offices and public institutions, in the charitable and penal institutions in this state. So far as practicable, all supplies used in such buildings, offices and public institutions shall be uniform for each class, and of the styles, patterns, designs and qualities that can be manufactured in the penal institutions in this state.

§ 185. Earnings of prisoners.—Every prisoner confined in the state prisons, reformatories and penitentiaries, who shall become entitled to a diminution of his term of sentence by good conduct, may, in the discretion of the agent and warden, or of the superintendent of the reformatory, or superintendent of the penitentiary, receive compensation from the earnings of the prison or reformatory or penitentiary in which he is confined, such compensation to be graded by the agent and warden of the prison for the prisoners therein, and the superintendent of the reformatory and penitentiary for the prisoners therein, for the time such prisoner may work, but in no case shall the compensation allowed to such convicts exceed in amount ten per centum of the earnings of the prison or reformatory or penitentiary in which they are confined. The difference in the rate of compensation shall be based both on the pecuniary value of the work performed, and also on the willingness, industry and good conduct of such prisoner; provided, that whenever any prisoner shall forfeit his good time for misconduct or violation of the rules or regulations of the prison, reformatory or penitentiary, he shall forfeit out of the compensation allowed under this section such an amount as may be determined by the agent and warden, the superintendent of the reformatory, or the superintendent of the penitentiary, not to exceed fifty cents for each day of good time so forfeited; and provided, that prisoners serving

Life sentences shall be entitled to the benefit of this section when their conduct is such as would entitle other prisoners to a diminution of sentence, subject to forfeiture of good time for misconduct as herein provided. The agent and warden of each prison, or the superintendent of the reformatory or superintendent of the penitentiary may institute and maintain a uniform system of fines, to be imposed at his discretion, in place of his other penalties and punishments, to be deducted from such compensation standing to the credit of any prisoner, for misconduct by such prisoner. [*As am'd by L. 1914, ch. 68.*]

EMPLOYMENT OF CONVICTS ON STATE AND COUNTY HIGHWAYS

HIGHWAY LAW, CHAPTER 25 OF THE CONSOLIDATED LAWS

§ 131. Award of contracts to board of supervisors or town board.—
* * *. When a contract is entered into under the provisions of this section, the board undertaking thereby to construct or improve a highway or section thereof, may, by resolution, direct the person or persons designated for carrying out the contract to apply to the superintendent of state prisons for convict labor, in the construction of such highway or section thereof. The resolution shall specify the maximum number of convicts to be applied for, for such work. Such designated person or persons shall make request, in writing, to the superintendent of state prisons for convict labor, in conformity to the provisions of such resolution, such request to be accompanied with a copy of such resolution. A copy of such resolution and of such request shall also be filed with the commission. The superintendent may detail for labor, pursuant to such resolution and request, such number of convicts as may be available therefor, not exceeding the number applied for. Such convicts shall be in the immediate charge and custody of the officers and guards detailed by the superintendent of state prisons, and at all times subject to the control of such superintendent, except that the work to be done shall be directed by the engineers and foremen of the state highway department. The expense of maintenance of such convicts shall be paid by the county or town entering into such contract from funds due thereon, to such municipality. * * *. [*As am'd by L. 1914, ch. 60.*]

See also L. 1914, ch. 68, for provisions relative to employment of convict labor on state highway route, No. 5-c, in Greene county; § 179 of the Prison Law, p. 240, *ante*.

§ 320-a. County system of roads.—* * * The employment of convict labor on roads so constructed shall be authorized and permitted, in the discretion of the superintendent of state prisons, upon the requisition of the county superintendent of highways. * * *. [*Added by L. 1914, ch. 61.*]
* * * * *

EMPLOYMENT OF PRISONERS IN COUNTY JAILS

THE COUNTY LAW, CHAPTER 11 OF THE CONSOLIDATED LAWS

§ 93. Food and labor.—Prisoners detained for trial, and those under sentence, shall be provided with a sufficient quantity of plain but wholesome food, at the expense of the county; but prisoners detained for trial may, at their own expense, and under the direction of the keeper, be supplied with any other proper articles of food. Such keeper shall cause each prisoner

committed to his jail for imprisonment under sentence, to be constantly employed at hard labor when practicable, during every day, except Sunday, and the board of supervisors of the county, or judge of the county, may prescribe the kind of labor at which such prisoner shall be employed; and the keeper shall account, at least annually, with the board of supervisors of the county, for the proceeds of such labor. Such keeper may, with the consent of the board of supervisors of the county, or the county judge, from time to time, cause such of the convicts under his charge as are capable of hard labor, to be employed outside of the jail in the same, or in an adjoining county, upon such terms as may be agreed upon between the keepers and the officers, or persons, under whose direction such convicts shall be placed, subject to such regulations as the board or judge may prescribe; and the board of supervisors of the several counties are authorized to employ convicts under sentence to confinement in the county jails, in building and repairing penal institutions of the county and in building and repairing the highways in their respective counties or in preparing the materials for such highways for sale to and for the use of such counties or towns, villages, and cities therein; and to make rules and regulations for their employment; and the said board of supervisors are hereby authorized to cause money to be raised by taxation for the purpose of furnishing materials and carrying this provision into effect; and the courts of this state are hereby authorized to sentence convicts committed to detention in the county jails to such hard labor as may be provided for them by the boards of supervisors.

EMPLOYMENT OF PRISONERS IN NEW YORK CITY PENAL INSTITUTIONS

LAWS OF 1901, CHAPTER 466 (THE NEW YORK CITY CHARTER)

§ 700. Employment of inmates; articles manufactured; cultivation of lands.— Every inmate of an institution under the charge of the commissioner, whose age and health will permit, shall be employed in quarrying or cutting stone, or in cultivating land under the control of the commissioner, or in manufacturing such articles as may be required for ordinary use in the institutions under the control of the commissioner, or for the use of any department of The City of New York, or in preparing and building sea walls upon islands or other places belonging to The City of New York upon which public institutions now are or may hereafter be erected, or in public works carried on by any department of the city, or at such mechanical or other labor as shall be found from experience to be suited to the capacity of the individual. The articles raised or manufactured by such labor shall be subject to the order of and shall be placed under the control of the commissioner, and shall be utilized in the institutions under his charge or in some other department of the city. All the lands under the jurisdiction of the commissioner not otherwise occupied or utilized, and which are capable of cultivation shall in the discretion of the commissioner be used for agricultural purposes.

§ 701. Detail of inmates to work in other departments.— At the request of any of the heads of the administrative departments of The City of New York (who are hereby empowered to make such request) the commissioner of correction may detail and designate any inmate or inmates of any of the institutions in the department of correction to perform work, labor and services in and upon the grounds and building or in and upon

any public work or improvement under the charge of such other department. And such inmates when so employed shall at all times be under the personal oversight and direction of a keeper or keepers from the department of correction, but no inmate of any correctional institution shall be employed in any ward of any hospital except hospitals in penal institutions, while such ward is being used for hospital purposes. The provisions of this act or of law requiring advertisement for bids or proposals, or the awarding of contracts, for work to be done or supplies to be furnished for any of said departments shall not be applicable to public work which may be done or to the supplies which may be furnished under the provisions of the prison law.

§ 702. Hours of labor; discipline.—The hours of labor required of any inmate of any institution under the charge of the commissioner shall be fixed by the commissioner. • • •

AGRICULTURAL LABOR

THE AGRICULTURAL LAW, CHAPTER 1 OF THE CONSOLIDATED LAWS

ARTICLE 12

Agricultural Statistics

Section 280. Collection and dissemination of statistics.

281. Information to be furnished by supervisors.

§ 280. Collection and dissemination of statistics.— The commissioner of agriculture may collect and disseminate such information relative to agriculture, and agricultural labor within the state, as he may deem wise for the purpose of promoting agricultural production within this state.

§ 281. Information to be furnished by supervisors.— Supervisors of the different towns and wards in this state shall furnish to the commissioner of agriculture upon request from him, upon blanks to be furnished by the said commissioner, such information as may be in their possession or may be obtained by them relative to agriculture, agricultural production and agricultural labor within their respective towns or wards. Such information shall be furnished to said commissioner within thirty days from the time it is asked for. The expense incurred by the several supervisors in furnishing such information shall be a town charge to be paid in the manner now provided by law for the payment of services and disbursements by such supervisor.

RAILWAY LABOR

[See also Duties and Liabilities of Employers and Employees, p. 185, and Labor Law, §§ 6, 7 and 8, pp. 11, 12, ante]

THE SAFETY OF RAILWAY EMPLOYEES

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 71. Duties imposed.— It shall be the duty of every railroad corporation operating its road by steam:

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenz, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employees on top of cars from injury.

3. To use upon every new freight car built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

4. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

* * * * *

Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision six, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the sixth subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

§ 72. Inspection of locomotive boilers.— It shall be the duty of every railroad corporation operated by steam power, within this state, and of the directors, managers or superintendents of such railroad to cause thorough inspections to be made of the boilers and their appurtenances of all the steam locomotives which shall be used by such corporation or corporations, on said railroads. Said inspections shall be made, at least every three months under the direction and superintendence of said corporations, or the directors, managers or superintendents thereof, by persons of suitable qualifications and attainments to perform the services required of inspectors of boilers, and who from their knowledge of the construction and use of boilers and the appurtenances therewith connected, are able to form a reliable opinion of the strength, form, workmanship and suitability of

boilers, to be employed without hazard of life, from imperfections in material, workmanship or arrangement of any part of such boiler and appurtenances. All such boilers so used shall comply with the following requirements: The boilers must be made of good and suitable materials; the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat shall be of proper dimensions; the safety valves, fusible plugs, low water glass * indicator gauge cocks and steam gauges, shall be of such construction, condition and arrangement that the same may be safely employed in the active service of the railroad corporation without peril to life; and each inspector shall satisfy himself by thorough examination that said requirements have been fully complied with. No boiler, nor any connection therewith shall be approved which is unsafe in its form, or dangerous from defects, workmanship or other cause. The person or persons who shall make the said inspections if he or they approve of the boiler or boilers and the appurtenances throughout, shall make and subscribe his or their name to a written or printed certificate which shall contain the number of each boiler inspected, the date of its inspection, the condition of the boiler inspected, and such details as may be required by the forms and regulations which shall be prescribed by the public service commission. Every certificate shall be verified by the oath of the inspector, and he shall cause such certificate or certificates to be filed in the office of the public service commission, within ten days after each inspection shall have been made, and also a copy thereof with the chief operating officer or employee of such railroad having charge of the operation of such locomotive boiler; a copy shall also be placed by such officer or employee in a conspicuous place in the cab connected with the locomotive boiler inspected, and there kept framed under glass. The public service commission shall have power, from time to time, to formulate rules and regulations for the inspection and testing of boilers as aforesaid, and may require the removal of incompetent inspectors of boilers under the provisions of this section. Copies of such rules and regulations shall be mailed to every corporation operating a railroad by steam in this state. If it shall be ascertained by such inspection and test or otherwise, that any locomotive boiler is unsafe for use, the same shall not again be used until it shall be repaired, and made safe, so as to comply with the requirements of this section. Every corporation, director, manager or superintendent operating such railroad and violating any of the provisions of this section shall be liable to a penalty, to be paid to the people of the state of New York, of one hundred dollars for each offense, and the further penalty of one hundred dollars for each day it or he shall omit or neglect to comply with said provisions, and the making or filing of a false certificate shall be a misdemeanor, and every inspector who wilfully certifies falsely touching any steam boiler, or any appurtenance thereto belonging, or any matter or thing contained or required to be contained in any certificate, signed and sworn to by him, shall be guilty of a misdemeanor. Any person, upon application to the secretary of said commission and on the payment of such reasonable fee as said commission may by rule fix, shall be furnished with a copy of any such cer-

* So in original.

tificate. The public service commission shall enforce the provisions of this section as to penalties.

§ 73. State inspector of locomotive boilers.—The office of state inspector of locomotive boilers is continued. Said inspector shall be appointed by the public service commissions and shall receive a compensation to be fixed by the commission, not exceeding three thousand dollars per year. He shall, under the direction of the commission, inspect boilers or locomotives used by railroad corporations operating steam railroads within the state, and may cause the same to be tested by hydrostatic test and shall perform such other duties in connection with the inspection and test of locomotive boilers as the commission shall direct. But this section shall not relieve any railroad corporation from the duties imposed by the preceding section.

§ 74. Care of steam locomotives; steam and water cocks; penalty.—It shall be the duty of every corporation operating a steam railroad, within this state, and of its directors, managers or superintendents, to cause the boiler of every locomotive used on such railroad to be washed out as often as once every thirty days, and to equip each boiler with and maintain thereon at all times, a water glass, showing the height of water in the boiler, having two valves or shut-off cocks, one at each end of such glass, which valves or shut-off cocks shall be so constructed that they can be easily opened and closed by hand; also to cause such valves or shut-off cocks and all gauge cocks or try-cocks attached to the boiler to be removed and cleaned whenever the boiler is washed out pursuant to the foregoing requirements of this section; also to keep all steam valves, cocks and joints, studs, bolts and seams in such repair that they will not at any time emit steam in front of the engineer, so as to obscure his vision. No locomotive shall hereafter be driven in this state unless the same is equipped and cared for in conformity with the provisions of this section; but nothing herein contained shall be construed to excuse the observance of any other requirement imposed by this chapter upon railroad corporations, their directors, officers, managers and superintendents. Every corporation, person or persons operating a steam railroad and violating any of the provisions of this section, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that such violation shall continue. The public service commission shall enforce the provisions of this section.

§ 75. Public service commission may approve other safeguards.—The public service commission may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the commission, in place of any safeguard or device hereinbefore required by this article, which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

* * * * *

§ 77. Equipment of engines.—It shall be unlawful for any railroad company to use within the state on its line or lines any locomotive engine not equipped with a power driving wheel brake and appliances for operating the train brake system.

§ 78. Coal jimmies and caboose cars.—The use of cars known and designated as "coal jimmies" in any form and the use of any car as a caboose unless it shall have a suitable and safe platform at each end thereof, and the usual railing for the protection of persons using such platform, shall be unlawful within the state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use thereof upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile.

From and after the first day of July, nineteen hundred and twenty, it shall be unlawful for any corporation or individual to man, equip, or to use within the state on any railroad a caboose car, or car to serve the purpose of a caboose car, which shall be less than twenty-four feet in length exclusive of the platform, or which shall have a center constructive strength less than that of the fifty ton freight cars built according to master car builders' standards. Such caboose or other equivalent car shall be constructed with steel center sills with two four-wheel trucks; with each platform not less than twenty-four inches wide, with proper guard rails, grab irons and steps, which shall be equipped with a suitable rod, board or other guard designed to prevent slipping from the car step. Each such car shall have a door at each end and shall be equipped with four separate sleeping berths not less than six feet and two inches in length. Each such car shall contain a properly furnished toilet room, sink, ice box, water cooler, clothing lockers, and with a cupola of sufficient size to accommodate at least two men. Whenever any caboose or other car used for like purpose now in use by any such railroad company shall, after this act goes into effect, be brought into any shop for general repairs it shall be unlawful to again put the same into use within this state, as a caboose or other car used for like purpose unless it be equipped as provided in this act.

This section shall not apply to cabooses or other equivalent cars used in the switching service or on trains operated wholly within twenty-five miles of yard limits.

Any violation of the provisions of this section shall be a misdemeanor, punishable by a fine of not less than one hundred dollars nor more than five hundred dollars for each separate offense. This penalty is in addition to that provided for in section eighty-one of this chapter. [*As am'd by L. 1913, ch. 497.*]

§ 79. Air-brakes.—It shall be unlawful for any railroad or other company to haul or permit to be hauled or used on its line or lines within this state any freight train that has not a sufficient number of cars in it so equipped with continuous power or air-brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

§ 80. Couplers.—It shall be unlawful for any railroad or other company to haul, or permit to be hauled or used, on its line or lines within the state, any freight car not equipped with couplers of the master car builders' type, and coupling automatically by impact, and which can be uncoupled, except in cases of accident, without the necessity of men going between the ends of the cars.

§ 81. Violation of four preceding sections.— Any railroad or other company hauling or permitting to be hauled on its line or lines any train in violation of any of the provisions of the preceding four sections shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in an action to be brought by the public service commission in the name of the people and in the judicial district wherein the principal office of the company within the state is located.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1988. Guard posts; automatic couplers.— All corporations and persons other than employees, operating any steam railroad in this state:

1. Failing to cause guard posts to be placed in prolongation of the line of bridge trusses upon such railroad, so that in case of derailment, the posts and not the trusses shall receive the blow of the derailed locomotive or car, or in lieu thereof failing to cause guard rails to be placed within the running rails of its track, or such other safeguard as the public service commission shall order, for the same purpose; or [*Subd. 1, am'd by L. 1913, ch. 398.*]

2. Failing to equip all of their own freight cars, run and used in freight or other trains on such railroad, with automatic self-couplers, or running or operating on such railroad any freight car belonging to any such person or corporation, without having the same equipped, except in case of accident or other emergency, with automatic self-couplers, and except within the extended time allowed by the public service commission, in pursuance of law, for equipping such car with such couplers, is guilty of a misdemeanor, punishable by a fine of five hundred dollars for each offense.

PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS

§ 47. Investigation of accidents.— Each commission shall investigate the cause of all accidents on any railroad or street railroad within its district which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier, railroad corporation and street railroad corporation is hereby required to give immediate notice to the commission of every accident happening upon any line of railroad or street railroad owned, operated, controlled or leased by it, within the territory over which such commission has jurisdiction in such manner as the commission may direct. Such notice shall not be admitted as evidence or used for any purpose against such common carrier, railroad corporation or street railroad corporation giving such notice in any suit or action for damages growing out of any matter mentioned in said notice.

See also § 66 authorizing the Commissions to order improvements necessary to protect persons employed in the manufacture and distribution of gas or electricity, and § 80 for similar power as to the manufacture and distribution of steam for heat or power.

FULL CREW LAW

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 54-a. Full crews for certain trains.— No person, corporation, trustee, receiver, or other court officer, shall run or operate, or cause to be run or operated, outside of the yard limits, on any railroad of more than fifty miles in length within this state, a freight train of more than twenty-five cars, unless

said train shall be manned with a crew of not less than one engineer, one fireman, one conductor and three brakemen; nor any train other than a freight train of five cars or more, without a crew of not less than one engineer, one fireman, one conductor and two brakemen, and if the train is a baggage train or a passenger train having a baggage car or baggage compartment without a baggageman in addition to said crew; nor any freight train of twenty-five cars or less without a crew of not less than one engineer, one fireman, one conductor and two brakemen; nor any light engine without a car or cars, without a crew of not less than one engineer, one fireman and one conductor or brakeman. Each separate violation of the provisions of this section shall be a misdemeanor punishable by a fine of not less than one hundred dollars nor more than five hundred dollars. Each train or light engine run in violation of the provisions of this section shall be deemed to be a separate offense. [Added by L. 1913, ch. 146.]

ENCLOSURE OF STREET CAR PLATFORMS

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 194. Protection of employees.—Every corporation operating a street surface railroad in this state, except such as operate a railroad or railroads either in the borough of Manhattan or Brooklyn, in the city of New York, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad which extends in or between towns or outside of city limits, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods, so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the state of New York, or in a suit by the attorney of the municipality in which the violation of the provisions of this section occurs, to be paid into the treasury of such municipality.

§ 195. Platforms on new cars, how constructed.—All street surface railroad passenger cars purchased, built or rebuilt after the first day of December, nineteen hundred and four, and operated in the state of New York on and after said date, except those owned by any company operating either in the borough of Manhattan or Brooklyn, in the city of New York, shall be constructed in accordance with the provisions of the preceding section.

§ 196. Protection to employees in the counties of Albany and Rensselaer.—Every corporation operating a street surface railroad in the counties of Albany and Rensselaer shall cause the front and rear platforms of every car propelled by electricity, cable or compressed air, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the front and at least one side of the platform to the hood, so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Platforms on cars on such street surface

railroads used more than one mile outside the limits of a city shall be completely inclosed from platform to hood. Every corporation using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected by the people to the use of the poor of the county in which such corporation has its principal office, in an action brought by the public service commission or the district attorney of such county. The supreme court may, on the application of a citizen, direct the district attorney to bring such action.

§ 197. Protection of employees in the counties of Kings and Queens.—Every corporation operating a street surface railroad in the counties of Kings or Queens, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods so as to afford protection to any person stationed by such corporation on such platforms to perform duties connected with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the city of New York, or in a suit by the district attorney of the counties of Kings or Queens to be paid into the treasury of the city of New York.

QUALIFICATIONS OF ENGINEERS AND TELEGRAPHERS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1982. Person unable to read not to act or be employed as engineer.—Any person unable to read the time-tables of a railroad and ordinary handwriting, who acts as an engineer or runs a locomotive or train on any railroad in this state; or any person who, in his own behalf, or in the behalf of any other person or corporation, knowingly employs a person so unable to read to act as such engineer or to run any such locomotive; or who employs a person as a telegraph operator who is under the age of eighteen years, or who has less than one year's experience in telegraphing, to receive or transmit a telegraphic message or train order for the movement of trains, is guilty of a misdemeanor.

QUALIFICATIONS OF STREET RAILWAY CONDUCTORS, MOTORMEN, ETC.

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 63. Persons employed as drivers, conductors, motormen or gripmen.—Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver, conductor, motorman or gripman, or in any other capacity, if fit and competent therefor. All applicants for positions as motormen or gripmen on any street surface railroad in this state shall be subjected to a thorough examination by the officers of the corporation as to their habits, physical ability and intelligence. If this examination is satisfactory, the applicant shall be placed in the shop or power house where he can be made

familiar with the power and machinery he is about to control. He shall then be placed on a car with an instructor, and when the latter is satisfied as to the applicant's capability for the position of motorman or gripman, he shall so certify to the officers of the company, and, if appointed, the applicant shall first serve on the lines of least travel. Any violation of the provisions of this section shall be a misdemeanor.

EMPLOYMENT OF INTEMPERATE PERSONS ON RAILWAYS AND STEAMBOATS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1913. Employment by common carrier of person addicted to intoxication.—Any person or officer of an association or corporation engaged in the business of conveying passengers or property for hire, who shall employ in the conduct of such business, as an engineer, fireman, conductor, switch-tender, train dispatcher, telegrapher, commander, pilot, mate, fireman or in other like capacity, so that by his neglect of duty, the safety and security of life, person or property so conveyed might be imperiled, any person who habitually indulges in the intemperate use of liquors, after notice that such person has been intoxicated, while in the active service of such person, association or corporation, shall be guilty of a misdemeanor.

§ 1984. Intoxication or other misconduct of railroad or steamboat employees.—1. Any person who, being employed upon any railway as engineer, conductor, baggagemaster, brakeman, switch-tender, fireman, bridge-tender, flagman, signal man, or having charge of stations, starting, regulating or running trains upon a railroad, or, being employed as captain, engineer or other officer of a vessel propelled by steam, is intoxicated while engaged in the discharge of any such duties; or,

2. An engineer, conductor, brakeman, switch-tender, or other officer, agent or employee of any railroad corporation, who wilfully violates or omits his duty as such officer, agent or employee, by which human life or safety is endangered, the punishment of which is not otherwise prescribed,

Is guilty of a misdemeanor.

See also §§ 322, 323, of the Highway Law (ch. 25 of the Consolidated Laws) forbidding the employment of persons addicted to drunkenness by owners of public carriages.

MISCONDUCT OF OFFICIALS OR EMPLOYEES ON ELEVATED RAILROADS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1983. Misconduct of officials or employees on elevated railroads.—Any conductor, brakeman, or other agent or employee of an elevated railroad, who:

1. Starts any train or car of such railroad, or gives any signal or order to any engineer or other person to start any such train or car, before every passenger therein who manifests an intention to depart therefrom by arising, or moving toward the exit thereof, has departed therefrom; or before every passenger on the platform or station at which the train has stopped, who manifests a desire to enter the train, has actually boarded or entered the same, unless due notice is given by an authorized employee of such railroad that the train is full, and that no more passengers can then be received; or,

2. Obstructs the lawful ingress or egress of a passenger to or from any such car; or,

3. Opens a platform gate of any such car while the train is in motion, or starts such train before such gate is firmly closed,

Is guilty of a misdemeanor.

Formerly Penal Code, § 419.

WEARING OF UNIFORMS AND BADGES

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1989. Inciting railroad employees not to wear uniform; unauthorized wearing of uniform.—A person who:

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority,
Is guilty of a misdemeanor.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 65. Conductors and employees must wear badges.—Every conductor and employee of a railroad corporation employed on a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employee without such badge shall meddle or interfere with any passenger, his baggage or property.

CONDUCTORS AND TRAINMEN AS POLICEMEN

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 88. When conductors and brakemen may be policemen.—The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation, or of any steamboat company, such additional policemen, designated by it, as he may deem proper, who shall have the same powers. Every such policeman shall within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state. The post-office address of the person appointed shall appear in the commission, and whenever such address is changed the person appointed shall file with

the governor a statement of the new address. Every such policeman shall when on duty wear a metallic shield with the words "railroad police" or "steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed, and shall be paid by the corporation. When any corporation shall no longer require the services of any such policeman it may file notice to that effect in the office in which notice of his appointment was originally filed, and thereupon such appointment shall cease and be at an end. The governor may also at pleasure revoke the appointment of any such policeman by filing a revocation thereof in the office of the secretary of state and mailing a notice of such filing to the corporation for which he was appointed, and also to the person whose appointment is revoked, at his last post-office address as the same appears in the commission or the latest statement thereof on file. If such person thereafter, knowing of such revocation or having in any manner received notice thereof, exercises or attempts to exercise any of the powers of a policeman, under this section, he shall be guilty of a misdemeanor; and the filing and mailing of such notice, as above provided, shall be presumptive evidence that such person knew of the revocation. [*As am'd by L. 1911, ch. 817.*]

PROVIDING FOR BAIL OF RAILWAY EMPLOYEES IN CASES OF ACCIDENT

CODE OF CRIMINAL PROCEDURE

§ 554-a. Bail of certain railroad employees.—Whenever a person employed as an engineer, fireman, motorman, conductor, trainman or otherwise, on a train or car of a steam, elevated or street surface railroad, is arrested in any city on a criminal charge, arising from an accident in connection with the operation of such train or car, resulting in an injury or death to a person or injury to property, such engineer, fireman, motorman, conductor, trainman or other employee, shall be immediately taken before a magistrate, if one is accessible, and otherwise, before a captain or sergeant of police, or acting sergeant of police, or lieutenant of police, in charge of a police station in such city, and be given an opportunity to be admitted to bail. Such bail shall be taken in the same manner, so far as practicable, as is provided by section five hundred and fifty-four of this code, for the taking of bail in case of misdemeanors by a captain or sergeant of police, or acting sergeant of police, or lieutenant of police, in a city or village, except that the amount of bail shall be fixed by such officer at not exceeding one thousand dollars, and except that the undertaking shall provide for the appearance of the defendant before the magistrate, coroner, or other officer, who, except for this section, would be authorized to take such bail. Such officer may, however, in his discretion, instead of exacting bail, release such employee on his own recognizance, conditional for his appearance as above provided in case an undertaking is required. [*Added by L. 1903, ch. 614; am'd by L. 1912, ch. 99.*]

**UNCLAIMED ARTICLES FOUND IN PUBLIC VEHICLES TO BE SOLD FOR
BENEFIT OF EMPLOYEES' ASSOCIATION****RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS**

§ 199. Sale of unclaimed property.—It shall be the duty of every street surface railroad corporation doing business in this state, and of every corporation engaged in this state in the business of carrying passengers for hire in cabs, coaches, or other similar vehicles or of letting such vehicles for hire, or in the business of operating a line of stages or omnibuses, which shall have unclaimed property left in its cars, cabs, coaches, stages or other similar vehicles, to ascertain if possible, the owner or owners of such property, and to notify such owner or owners of the fact by mail as soon as possible, after such property comes into its possession. Every such corporation which shall have such property not perishable, in its possession for the period of three months, may sell the same at public auction, after giving notice to that effect, by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or village in which such sale is to take place, of the time and place at which such sale will be held, and such sale may be adjourned from time to time until all the articles offered for sale are sold. All perishable property so left, may be sold by any such corporation without notice, as soon as it can be, upon the best terms that can be obtained.

§ 200. Disposition of proceeds.—All moneys arising from the sale of any such unclaimed property, after deducting charges for storage and expenses of sale, shall be paid by any such corporation to the treasurer of any association, composed of the employees of such corporation, having for its object the pecuniary assistance of its members in case of disability caused by sickness or accident, for the use and benefit of such association and its members; and where no such association of the employees of any such corporation is in existence at the time of any such sale, such moneys shall be paid over to the county treasurer of the county or if in a city, to the chief fiscal officer thereof, in which such sale took place for the benefit of such city or county.

Compare Railroad Law, § 68, relating to sale of "Unclaimed freight and baggage."

FREE TRANSPORTATION OR REDUCED RATES FOR EMPLOYEES**PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS**

§ 33. * * *. 2. No common carrier subject to the provisions of this chapter shall, directly or indirectly, issue or give any free ticket, free pass or free transportation for passengers or property between points within this state, except to its officers, employees, agents, surgeons, physicians, attorneys-at-law, and their families; to ministers of religion, officers and employees of railroad young men's christian associations, inmates of hospitals, charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; and to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge, and boards of managers of such homes; to necessary care-

takers of property in transit; to employees of sleeping-car companies, express companies, telegraph and telephone companies doing business along the line of the issuing carrier; to railway mail service employees, post-office inspectors, mail carriers in uniform, customs inspectors and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation or proceeding in which the common carrier is interested, persons injured in accidents or wrecks and physicians and nurses attending such person; to the carriage free or at reduced rates of persons or property for the United States, state or municipal governments, or of property to or from fairs and expositions for exhibit thereat. [*Subd. 2 am'd by L. 1914, ch. 38; and L. 1914, ch. 116.*]

3. Nothing in this chapter shall be construed to prohibit the interchange of free or reduced transportation between common carriers of or for their officers, agents, employees, attorneys, surgeons, and their families, and their household and personal effects, nor to prohibit any common carrier from carrying passengers or property free, with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation; nor to prohibit any common carrier from transporting persons or property as incident to or connected with contracts for construction, operation or maintenance, and to the extent only that such free transportation is provided for in the contract for such work, nor to prevent any common carrier from transporting children under five years of age free. Provided further, that nothing in this chapter shall prevent the issuance of mileage, excursion, school or family commutation, commutation passenger tickets, half fare tickets for the transportation of children under twelve years of age, or any other form of reduced rate passenger tickets, or joint interchangeable mileage tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand miles or more. But before any common carrier subject to the provision of this chapter shall issue any such mileage, excursion, school or family commutation, commutation, half fare, or any other form of reduced rate passenger tickets, or joint interchangeable mileage ticket, with special privileges as aforesaid, it shall file with the commission copies of the tariffs of rates, fares or charges on which such tickets are to be based, together with the specifications of the amount of free baggage permitted to be carried under such joint interchangeable mileage ticket, in the same manner as common carriers are required to do with regard to other rates by this chapter. Nor shall anything in this chapter prevent the issuance of passenger transportation in exchange for advertising space in newspapers at full rates.

The term "employees" as used in subdivisions two and three of this section, when referring to employees of a common carrier, shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in such subdivisions shall include the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died, while in the service of such common carrier. [*Subd. 3, am'd by L. 1914, ch. 38.*]

COMPLAINTS TO PUBLIC SERVICE COMMISSIONS**PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS**

§ 45. General powers and duties of commissions in respect to common carriers, railroads and street railroads.— * * * 2. Each commission shall have the general supervision of all common carriers, railroads, street railroads, railroad corporations and street railroad corporations within its jurisdiction as hereinbefore defined, and shall have power to and shall examine the same and keep informed as to their general condition, their capitalization, their franchises and the manner in which their lines and property, owned, leased, controlled or operated, are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with all provisions of law, orders of the commission and charter requirements. Each commission shall have power, either through its members or responsible engineers or inspectors duly authorized by it, to enter in or upon and to inspect the property, equipment, buildings, plants, factories, power-houses and offices of any of such corporations or persons, including the right for such inspection purpose to ride upon any freight locomotive or train or any passenger locomotive or train while in service; and to have upon reasonable notice the use of an inspection locomotive or special locomotive and inspection car for a physical inspection once annually of all the lines and stations of each common carrier under its supervision; and to the extent that such facilities for inspection involve transportation each commissioner and each such employee shall pay the published one-way fare established by the common carrier for the transportation of persons by regular passenger trains over the distance covered by such inspection. The cost of such transportation, if the commission so elects, may be paid upon bill rendered to the commission after the transportation has been furnished and the amount thereof ascertained.

3. Each commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any person or corporation subject to its supervision, and by subpoena duces tecum to compel production thereof. In lieu of requiring production of originals by subpoena duces tecum, the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers or parts thereof to be filed with it.

* * * * *

§ 48. Investigations by commission.— 1. Each commission may, of its own motion, investigate or make inquiry, in a manner to be determined by it, as to any act or thing done or omitted to be done by any common carrier, railroad corporation or street railroad corporation, subject to its supervision, and the commission must make such inquiry in regard to any act or thing done or omitted to be done by any such common carrier, railroad corporation or street railroad corporation in violation of any provision of law or in violation of any order of the commission.

2. Complaints may be made to the proper commission by any person or corporation aggrieved, by petition or complaint in writing setting forth any thing or act done or omitted to be done by any common carrier, railroad corporation or street railroad corporation in violation, or claimed to be in vio-

lation, of any provision of law or of the terms and conditions of its franchise or charter or of any order of the commission. Upon the presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of, which may be accompanied by an order, directed to such person or corporation, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise or order charged in the complaint, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify.

3. Whenever either commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier, railroad corporation or street railroad corporation under this section it shall be its duty to make and file an order either dismissing the petition or complaint or directing the common carrier, railroad corporation or street railroad corporation complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require.

INDUSTRIAL EDUCATION

THE APPRENTICE SYSTEM

[Apprenticeship is regulated by article 8 of the Domestic Relations Law, following, which is to be enforced by the commissioner of labor (see § 22 of the Labor Law, p. 21, *ante*). The Penal Law makes it a misdemeanor to take an apprentice without the consent of the parent or guardian (§ 1275, p. 171, *ante*), and the Code of Criminal Procedure (Title IX of Part VI) prescribes the proceedings respecting masters, apprentices and servants.]

DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS

ARTICLE 8

Apprentices and Servants

Section 120. Definitions; effect of article.

121. Contents of indenture.

122. Indenture by minor; by whom signed.

123. Indenture by poor officers; by whom signed.

124. Binding out children by charitable corporation; indenture; by whom signed.

125. Penalty for failure of master or employer to perform provisions of indenture.

126. Assignment of indenture on death of master or employer.

127. Contract with apprentice in restraint of trade void.

§ 120. Definitions; effect of article.—The instrument whereby a minor is bound out to serve as a clerk or servant in any trade, profession or employment, or is apprenticed to learn the art or mystery of any trade or craft, is an indenture.

Every indenture made in pursuance of the laws repealed by this chapter shall be valid hereunder, but hereafter a minor shall not be bound out or apprenticed except in pursuance of this article.

§ 121. Contents of indenture.—Every indenture must contain:

1. The names of the parties;
2. The age of the minor as nearly as can be ascertained, which age on the filing of the indenture shall be taken *prima facie* to be the true age;
3. A statement of the nature of the service or employment to which the minor is bound or apprenticed;
4. The term of service or apprenticeship, stating the beginning and end thereof;
5. An agreement that the minor will not leave his master or employer during the term for which he is indentured;
6. An agreement that suitable and proper board, lodging and medical attendance for the minor during the continuance of the term shall be provided, either by the master or employer, or by the parent or guardian of the apprentice;
7. A statement of every sum of money paid or agreed to be paid in relation to the service;
8. If such minor is bound as an apprentice to learn the art or mystery of any trade or craft, an agreement on the part of the employer to teach, or cause to be carefully and skillfully taught, to such apprentice, every branch

of the business to which such apprentice is indentured, and that at the expiration of such apprenticeship he will give to such apprentice a certificate, in writing, that such apprentice has served at such trade or craft a full term of apprenticeship specified in such indenture;

9. If a minor is indentured by the poor officers of a county, city or town, or by the authorities of an orphan asylum, penal or charitable institution, an agreement that the master or employer will cause such child to be instructed in reading, writing and the general rules of arithmetic, and that at the expiration of the term of service he will give to such minor a new bible.

Every such indenture shall be filed in the office of the county clerk of the county where the master or employer resides.

§ 122. Indenture by minor; by whom signed.—Any minor may, by the execution of the indenture provided by this article, bind himself or herself:

1. As an apprentice to learn the art or mystery of any trade or craft for a term of not less than three nor more than five years;

2. As a servant or clerk in any profession, trade or employment for a term of service not longer than the minority of such minor, unless such indenture be made by a minor coming from a foreign country, for the purpose of paying his passage, when such indenture may be made for a term of one year although such term may extend beyond the time when such person will be of full age.

An indenture made in pursuance of this section must be signed,

1. By the minor;

2. By the father of the minor unless he is legally incapable of giving consent or has abandoned his family;

3. By the mother of the minor unless she is legally incapable of giving consent;

4. By the guardian of the person of the minor, if any;

5. If there be neither parents nor guardian of the minor legally capable of giving consent, by the county judge of the county, or a justice of the supreme court of the district, in which the minor resides; whose consent shall be necessary to the binding out or apprenticing in pursuance of this section of a minor coming from a foreign country or of the child of an Indian woman, in addition to the other consents herein provided;

6. By the master or employer.

§ 123. Indenture by poor officers; by whom signed.—The poor officers of a municipal corporation may, by an execution of the indenture provided by this article, bind out or apprentice any minor whose support shall become chargeable to such municipal corporation.

In such case the indenture shall be signed,

1. By the officer or officers binding out or apprenticing the minor;

2. By the master or employer;

3. By the county judge of the county, if the support of such child was chargeable to the county, by two justices of the peace, if chargeable to the town, or by the mayor and aldermen or any two of them, if chargeable to the city.

The poor officers by whom a child is indentured and their successors in office shall be guardians of every such child and shall inquire into the treatment thereof, and redress any grievance as provided by law.

§ 124. **Binding out children by charitable corporation; indenture; by whom signed.**—An orphan asylum or charitable institution, incorporated for the care of orphans, friendless or destitute children, may bind out as an apprentice, clerk or servant, an indigent or poor child by an indenture in writing. Such child must have been absolutely surrendered to the care and custody of such asylum or institution in pursuance of this chapter, or have been placed therein as a poor person, as provided in section fifty-six of the poor law, or have been left to the care of such asylum or institution with no provision by the parent, relative or legal guardian of such child, for its support, for a period of one year then next preceding. Such indenture shall bind such child, if a male, for a period which shall not extend beyond his twenty-first year, and if a female, for a period which shall not extend beyond her eighteenth year. Every such child shall, when practicable, be bound out or apprenticed to persons of the same religious faith as the parents of such child. The indenture shall in such case be signed:

1. In the corporate name of such institution by the officer or officers thereof authorized by the directors to sign the corporate name to such instrument, and shall be sealed with the corporate seal;

2. By the master or employer.

Such indenture may also be signed by the child, if over twelve years of age.

§ 125. **Penalty for failure of master or employer to perform provisions of indenture.**—If a master or employer to whom a minor has been indentured shall fail, during the term of service, to perform any provision of such indenture on his part, such minor or any person in his behalf may bring an action against the master or employer to recover damages for such failure; and if satisfied that there is sufficient cause, the court shall direct such indenture to be canceled, and may render judgment against such master or employer for not to exceed one thousand nor less than one hundred dollars, to be collected and paid over for the use and benefit of such minor to the corporation or officers indenturing such minor, if so indentured, and otherwise, to the parents or guardian of the child.

§ 126. **Assignment of indenture on death of master or employer.**—On the death of a master or employer to whom a person is indentured by the poor officers of a municipal corporation, the personal representatives of the master or employer may, with the written and acknowledged consent of such person, assign such indenture and the assignee shall become vested with all the rights and subject to all the liabilities of his assignor, or if such consent be refused, the assignment may be made with like effect by the county judge of the county, on proof that fourteen days' notice of the application therefor has been given to the person indentured, to the officers by whom indentured, and to his parent or guardian, if in the country.

§ 127. **Contract with apprentice in restraint of trade void.**—No person shall accept from any apprentice any agreement or cause him to be bound by oath, that after his term of service expires he will not exercise his trade, profession or employment in any particular place; nor shall any person exact from any apprentice, after his term of service expires, any money or other thing, for exercising his trade, profession or employment in any place. Any security given in violation of this section shall be void; and any money paid, or valuable thing delivered, for the consideration, in whole or in part, of any

such agreement or exaction, may be recovered by the person paying the same with interest; and every person accepting such agreement, causing such obligation to be entered into, or exacting money or other thing, is also liable to the apprentice in the penalty of one hundred dollars, which may be recovered in a civil suit.

INDUSTRIAL TRAINING IN THE PUBLIC SCHOOLS

EDUCATION LAW, CHAPTER 16 OF THE CONSOLIDATED LAWS (AS AMENDED BY
L. 1910, CH. 140)

ARTICLE 23

General Industrial Schools, Trade Schools, and Schools of Agriculture, Mechanic Arts and Home Making

Section 600. General industrial schools, trade schools, and schools of agriculture, mechanic arts and home making, may be established in cities.

- 601. Such schools may be established in union free school districts.
- 602. Appointment of an advisory board.
- 603. Authority of the board of education over such schools.
- 604. State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.
- 605. Application of such moneys.
- 606. Annual estimate by board of education and appropriations by municipal and school districts.
- 607. Courses in schools of agriculture for training of teachers.

§ 600. General industrial schools, trade schools and schools of agriculture, mechanic arts and home making, may be established in cities.—The board of education of any city, and in a city not having a board of education the officer having the management and supervision of the public school system, may establish, acquire, conduct and maintain as a part of the public school system of such city the following:

- 1. General industrial schools open to pupils who have completed the elementary school course or who have attained the age of fourteen years, and
- 2. Trade schools open to pupils who have attained the age of sixteen years and have completed either the elementary school course or a course in the above mentioned general industrial school or who have met such other requirements as the local school authorities may have prescribed; and [*Subd. 2 am'd by L. 1913, ch. 747.*]

3. Schools of agriculture, mechanic arts and home making, open to pupils who have completed the elementary school course or who have attained the age of fourteen, or who have met such other requirements as the local school authorities may have prescribed; and

4. Part time or continuation schools in which instruction shall be given in the trades and in industrial, agricultural and home making subjects, and which shall be open to pupils over fourteen years of age who are regularly and lawfully employed during a part of the day in any useful employment or service, which subjects shall be supplementary to the practical work carried on in such employment or service. [*Subd. 4 added by L. 1913, ch. 747.*]

5. Evening vocational schools in which instruction shall be given in the trades and in industrial, agricultural and home making subjects, and which shall be open to pupils over sixteen years of age, who are regularly and

lawfully employed during the day and which provide instruction in subjects related to the practical work carried on in such employment; but such evening vocational schools providing instruction in home making shall be open to all women over sixteen years of age who are employed in any capacity during the day.

The word "school," as used in this article, shall include any department or course of instruction established and maintained in a public school for any of the purposes specified in this section. [*Subd. 5 added by L. 1913, ch. 747.*]

§ 601. Such schools may be established in union free school districts.—The board of education of any union free school district shall also establish, acquire and maintain such schools for like purposes whenever such schools shall be authorized by a district meeting. The trustee or board of trustees of a common school district may establish a school or a course in agriculture, mechanic arts and home making, when authorized by a district meeting. [*As am'd by L. 1913, ch. 747.*]

§ 602. Appointment of an advisory board.—1. The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education shall appoint an advisory board of five members representing the local trades, industries, and occupations. In the first instance two of such members shall be appointed for a term of one year and three of such members shall be appointed for a term of two years. Thereafter as the terms of such members shall expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy occurring on such board shall be filled by the appointing power named in this section for the remainder of the unexpired term.

2. It shall be the duty of such advisory board to counsel with and advise the board of education or the officer having the management and supervision of the public school system in a city not having a board of education in relation to the powers and duties vested in such board or officer by section six hundred and three of this chapter.

§ 603. Authority of the board of education over such schools.—The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education and the board of education in a union free school district in which city or district a general industrial school, a trade school, a school of agriculture, mechanic arts and home making, or a part time or continuation school, or an evening vocational school is established as provided in this article, is vested with the same power and authority over the management, supervision and control of such school and the teachers or instructors employed therein as such board or officer now has over the schools and teachers under their charge. Such boards of education or such officer shall also have full power and authority:

1. To employ competent teachers or instructors.
2. To provide proper courses of study.
3. To purchase or acquire sites and grounds and to purchase, acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.

4. To purchase necessary machinery, tools, apparatus and supplies. [Section 603, *am'd by L. 1913, ch. 747.*]

§ 604. State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.— 1. The commissioner of education in the annual apportionment of the state school moneys shall apportion therefrom to each city and union free school district for each general industrial school, trade school, part time or continuation school or evening vocational school, maintained therein for thirty-six weeks during the school year and employing one teacher whose work is devoted exclusively to such school, and having an enrollment of at least fifteen pupils and maintaining an organization and a course of study, and conducted in a manner approved by him, a sum equal to two-thirds of the salary paid to such teacher, but not exceeding one thousand dollars.

2. He shall also apportion in like manner to each city, union free school district or common school district for each school of agriculture, mechanic arts and home making, maintained therein for thirty-six weeks during the school year, and employing one teacher whose work is devoted exclusively to such school, and having an enrollment of at least fifteen pupils and maintaining an organization and course of study and conducted in a manner approved by him, a sum equal to two-thirds of the salary paid to such teacher. Such teacher may be employed for the entire year, and during the time that the said school is not open shall be engaged in performing such educational services as may be required by the board of education or trustees, under regulations adopted by the commissioner of education. Where a contract is made with a teacher for the entire year and such teacher is employed for such period, as herein provided, the commissioner of education shall make an additional apportionment to such city or district of the sum of two hundred dollars. But the total amount apportioned in each year on account of such teacher shall not exceed one thousand dollars.

3. The commissioner of education shall also make an additional apportionment to each city and union free school district for each additional teacher employed exclusively in the schools mentioned in the preceding subdivisions of this section for thirty-six weeks during the school year, a sum equal to one-third of the salary paid to each such additional teacher, but not exceeding one thousand dollars for each teacher.

4. The commissioner of education, in his discretion, may apportion to a district or city maintaining such schools or employing such teachers for a shorter time than thirty-six weeks, or for a less time than a regular school day, an amount prorata to the time such schools are maintained or such teachers are employed. This section shall not be construed to entitle manual training high schools or other secondary schools maintaining manual training departments, to an apportionment of funds herein provided for.

Any person employed as teacher as provided herein may serve as principal of the school in which the said industrial or trade school or course, or school or course of agriculture, mechanic arts and home making, is maintained. [Section 604 *am'd by L. 1913, ch. 747.*]

§ 605. Application of such moneys.— All moneys apportioned by the commissioner of education for schools under this article shall be used exclusively for the payment of the salaries of teachers employed in such schools in the

city or district to which such moneys are apportioned. [*As am'd by L. 1913, ch. 747.*]

§ 606. Annual estimate by board of education and appropriations by municipal and school districts.—1. The board of education of each city or the officer having the management and supervision of the public school system in a city not having a board of education shall file with the common council of such city, within thirty days after the commencement of the fiscal year of such city, a written itemized estimate of the expenditures necessary for the maintenance of its general industrial schools, trade schools, schools of agriculture, mechanic arts and home making, part time or continuation schools or evening vocational schools, and the estimated amount which the city will receive from the state school moneys applicable to the support of such schools. The common council shall give a public hearing to such persons as wish to be heard in reference thereto. The common council shall adopt such estimate and, after deducting therefrom the amount of state moneys applicable to the support of such schools, shall include the balance in the annual tax budget of such city. Such amount shall be levied, assessed and raised by tax upon the real and personal property liable to taxation in the city at the time and in the manner that other taxes for school purposes are raised. The common council shall have power by a two-thirds vote to reduce or reject any item included in such estimate. [*Subd. 1 am'd by L. 1913, ch. 747.*]

2. The board of education in a union free school district which maintains a general industrial school, trade school, a school of agriculture, mechanic arts and home making, part time or continuation schools or evening vocational schools, shall include in its estimate of expenses pursuant to the provisions of sections three hundred and twenty-three and three hundred and twenty-seven of this chapter the amount that will be required to maintain such schools after applying toward the maintenance thereof the amount apportioned therefor by the commissioner of education. Such amount shall thereafter be levied, assessed and raised by tax upon the taxable property of the district at the time and in the manner that other taxes for school purposes are raised in such district. [*Subd. 2 am'd by L. 1913, ch. 747.*]

§ 607. Courses in schools of agriculture for training of teachers.—The state schools of agriculture at Saint Lawrence University, at Alfred University and at Morrisville may give courses for the training of teachers in agriculture, mechanic arts, domestic science or home making, approved by the commissioner of education. Such schools shall be entitled to an apportionment of money as provided in section six hundred and four of this chapter for schools established in union free school districts. Graduates from such approved courses may receive licenses to teach agriculture, mechanic arts and home making in the public schools of the state, subject to such rules and regulations as the commissioner of education may prescribe.

SCHOOLS IN LABOR CAMPS

**EDUCATION LAW, CHAPTER 16 OF THE CONSOLIDATED LAWS (AS AMENDED BY
L. 1910, CH. 140)**

ARTICLE 6-A

[Added by L. 1913, ch. 176.]

Temporary School Districts

- Section 175.** Establishment of temporary school districts.
176. Organization of districts; officers.
177. Maintenance of schools; teachers.
178. Payment of expenses; gifts and contributions.
179. Regulations of commissioner of education.

§ 175. Establishment of temporary school districts.—Temporary school districts may be established outside of cities and union free school districts and public schools shall be maintained therein as hereinafter provided. Such districts may be established whenever any considerable number of persons shall have been congregated in camps or other places of temporary habitation, who are engaged in the construction of public works by, or under contract with, the state, or in the construction of public works or improvements by or under contract with any municipality. Such temporary districts shall be established by order of the district superintendent of schools of the supervisory district within which such camps or other places of temporary habitation are located, subject to the approval of the commissioner of education. Such order shall be filed in the state education department and if the public works or improvements are being constructed by a municipality, a copy thereof shall be filed in the office of the officer or board of the city under whose direction they are being constructed. When so established such districts shall be entitled to share in the apportionment of public money as in the case of other school districts, except that each district quota shall be one hundred and twenty-five dollars. The money so apportioned shall be paid to the treasurer of the district and be applied in the payment of teachers' salaries.

§ 176. Organization of districts; officers.—Each of such districts shall have a trustee who shall be appointed by the district superintendent of schools, and a district clerk and treasurer to be appointed by the trustee. Each of such officers shall serve during the continuance of the camp or other place of temporary habitation, unless sooner removed by the district superintendent. The treasurer shall give a bond to the people of the state, in an amount to be determined by the district superintendent, and with sureties approved by him, conditioned for the proper disbursement and accounting of all moneys received by him in behalf of such district.

§ 177. Maintenance of schools; teachers.—Such schools shall be under the supervision of the district superintendent and shall be maintained pursuant to regulations adopted by the commissioner of education. They shall be free to all children of school age residing in such camps and other places of temporary habitation, and also to all adults residing therein. They shall be open at such hours as may be prescribed by the district superintendent, subject to the approval of the commissioner of education. The trustee of each such district shall employ qualified teachers for the school therein, for

such term and at such rate of compensation as may be determined upon by the district superintendent, with the approval of the commissioner of education. The said trustees shall provide suitable building or rooms for such school and shall require the same to be kept in proper condition for the maintenance thereof, and shall cause the same to be equipped and supplied with all necessary books, furniture, apparatus and appliances.

§ 178. **Payment of expenses; gifts and contributions.**—The costs and expenses of maintaining such schools in temporary districts, exclusive of the amount apportioned thereto out of the public moneys, shall be paid in such districts where the public works are being constructed by the state, out of moneys appropriated for such purpose. In districts where public works or improvements are being constructed for a municipality, such costs and expenses shall be a charge upon such municipality, and shall be paid out of funds available for the payment of the cost of construction of such works or improvements.

The trustee of such district shall prepare an estimate of the amount of probable expenditures for the maintenance of the public schools in such district, which shall include a statement of the amount in the hands of the treasurer available for such maintenance, the amount received by such treasurer from gifts, contributions and other sources, and the amount to be received from the public school moneys, as herein provided, and shall also state the amount required to be raised for such school, specifying the items thereof, for the ensuing school year. The form of such estimate shall be prescribed by the district superintendent. In the districts where the public works are being constructed by a municipality the said estimate shall be executed in duplicate, one of which shall be filed with the state education department, and the other shall be filed in the office of the department or officer of the municipality under whose supervision such public works are being constructed. Upon the approval of such estimates by the state education department notice thereof shall be given to the said department or officer of the municipality, and payment of the amount specified in such estimate shall be made to the treasurer of such district. The treasurer shall preserve vouchers of all payments made by him on account of the school in his district and shall make no payments for purposes not provided for in the estimate, nor without the order of the trustee of the district accompanied with the necessary vouchers.

§ 179. **Regulations of commissioner of education.**—The commissioner of education shall make regulations, not inconsistent herewith, for the purpose of providing for the establishment and maintenance of schools as herein provided, and for the purpose of carrying into effect the full intent of this article.

FREE LECTURES FOR WORKINGPEOPLE

LAWS OF 1888, CHAPTER 545

AN ACT to provide for lectures for workingmen and workingwomen [in New York City]

§ 1. The board of education of the city of New York is hereby authorized and empowered to provide for the employment of competent lecturers to deliver lectures on the natural sciences and kindred subjects in the public schools of said city in the evenings for the benefit of workingmen and workingwomen.

§ 2. The said board of education shall have power to purchase the books, stationery, charts and other things necessary and expedient to successfully conduct said lectures which it shall have power to direct.

§ 3. No admission fee shall be charged, and at least one school in each ward of said city or such hall or halls therein, if there is not suitable accommodation in the school buildings for persons attending said lectures, where in the judgment of the said board of education it is practicable or expedient, shall be selected and designated by said board for the purpose of carrying out the provisions of this act, and one or more lectures, in the discretion of said board, shall be delivered in each school or other building so selected and designated in each week, between the first day of October in each year and the thirty-first day of March in each succeeding year, excepting the two weeks preceding and the week following the first day of January in each year; and such lecture or lectures may be advertised in a newspaper or newspapers published in said city, or otherwise, as the said board of education in its discretion shall determine. The board of estimate and apportionment of the city and county of New York is hereby authorized to appropriate annually sufficient money to carry out the provisions of this act. [*As am'd by L. 1889, ch. 383; L. 1890, ch. 305; L. 1891, ch. 71.*]

LICENSING OF TRADES

[State examination boards grant certificates or licenses to nurses, pharmacists, physicians and other professions, and also to marine engineers and chauffeurs; but the regulation of other licensed *trades* is delegated to municipalities. Of the various local laws only those applying to New York City are here reprinted.]

LICENSING OF ENGINEERS AND PILOTS OF VESSELS

THE NAVIGATION LAW, CHAPTER 37 OF THE CONSOLIDATED LAWS

§ 17. Licenses.—Every person employed as master, pilot or engineer on board of a steam vessel or a vessel propelled by machinery, carrying passengers or freight for hire, or towing for hire, shall be examined by the inspectors as to his qualifications, and if satisfied therewith they shall grant him a license for the term of one year for such boat, boats or class of boats as said inspectors may specify in such license. In a proper case, the license may permit and specify that the master may act as pilot, and in case of small vessels also as engineer and pilot. The license shall be framed under glass, and posted in some conspicuous place on the vessel on which he may act. Whoever acts as master, pilot or engineer, without having first received such license, or upon a boat or class of boats not specified in his license, shall be liable to a penalty of fifty dollars for each day that he so acts, except as in this article otherwise specified, and such license may be revoked by the inspectors for intemperance, incompetency or willful violation of duty. An applicant for license as master, pilot or engineer, to act as such on steam vessels, must be a citizen of the United States, at least twenty-one years of age, and to act as such on motor boats he shall be not less than eighteen years old. [*As am'd by L. 1913, ch. 765.*]

§ 34. * * * Each person licensed shall pay five dollars for each original license and three dollars for each renewal thereof. * * *

For the act regulating the pilotage of the port of New York see Navigation Law, § 56.

LICENSING OF CHAUFFEURS

THE HIGHWAY LAW, CHAPTER 25 OF THE CONSOLIDATED LAWS

§ 281. Definitions.—* * * The term "chauffeur" shall mean any person operating or driving a motor vehicle, as an employee or for hire. * * * [*Added by L. 1910, ch. 374; am'd by L. 1911, ch. 491.*]

§ 289. License of chauffeurs; renewals.—1. License of chauffeurs. Application for license to operate motor vehicles, as a chauffeur, may be made, by mail or otherwise, to the secretary of state or his duly authorized agent upon blanks prepared under his authority. The secretary of state shall appoint examiners and cause examinations to be held at convenient points throughout the state as often as may be necessary. Such application shall be accompanied by a photograph of the applicant in such numbers and forms as the secretary of state shall prescribe, said photograph to be taken within thirty days prior to the filing of said application and to be accompanied by the fee provided herein. Before such a license is granted the applicant shall pass such examination as to his qualifications as the secretary of state

shall require. No chauffeur's license shall be issued to any person under eighteen years of age. To each person shall be assigned some distinguishing number or mark, and the license issued shall be in such form as the secretary of state shall determine; it may contain special restrictions and limitations concerning the type of motor power, horse power, design and other features of the motor vehicles which the licensee may operate; it shall contain the distinguishing number or mark assigned to the licensee, his name, place of residence and address, a brief description of the licensee for the purpose of identification and the photograph of the licensee. Such distinctive number or mark shall be of a distinctly different color each year and in any year shall be of the same color as that of the number plates issued for that year. The secretary of state shall furnish to every chauffeur so licensed a suitable metal badge with the distinguishing number or mark assigned to him thereon without extra charge therefor. This badge shall thereafter be worn by such chauffeur affixed to his clothing in a conspicuous place, at all times while he is operating or driving a motor vehicle upon the public highway. Said badge shall be valid only during the term of the license of the chauffeur to whom it is issued as aforesaid. Every person licensed to operate motor vehicles as aforesaid shall indorse his usual signature on the margin of the license, in the space provided for the purpose, immediately upon receipt of said license, and such license shall not be valid until so indorsed. Every application for license filed under the provisions of this section shall be sworn to and shall be accompanied by a fee of five dollars, two dollars of which shall be for his examination aforesaid and three dollars for license fee. The license hereunder granted on or before August first, nineteen hundred and ten, shall take effect on that date, and licenses issued prior to January thirty-first, nineteen hundred and eleven, shall expire on that date. The fees for such licenses shall be one-half of the annual fees provided herein. [*Subd. 1 added by L. 1910, ch. 374; am'd by L. 1911, ch. 491.*]

2. Chauffeur's licensed registration book. Upon the receipt of such an application, the secretary of state shall thereupon file the same in his office, and register the applicant in a book or index which shall be kept in the same manner as the book or index for the registration of motor vehicles, and when the applicant shall have passed the examination provided for in the preceding section, the number or mark assigned to such applicant together with the fact that such applicant has passed such examination shall be noted in said book or index. [*Subd. 2 added by L. 1910, ch. 374.*]

3. Unauthorized possession or use of license or badge. No chauffeur having been licensed as herein provided shall voluntarily permit any other person to possess or use his license or badge, nor shall any person while operating or driving a motor vehicle use or possess any license or badge belonging to another person, or a fictitious license or badge. [*Subd. 3 added by L. 1910, ch. 374.*]

4. Unlicensed chauffeurs cannot drive motor vehicle. No person shall operate or drive a motor vehicle as a chauffeur upon a public highway of this state after the first day of August, nineteen hundred and ten, unless such person shall have complied in all respects with the requirements of this section; provided, however, that a nonresident chauffeur, who has registered under provisions of law of the foreign country, state, territory or federal district of his residence substantially equivalent to the provisions of this

section, shall be exempt from license under this section; and provided, further, he shall wear the badge assigned to him in the foreign country, state, territory or federal district of his residence in the manner provided in this section. [*Subd. 4 added by L. 1910, ch. 374.*]

5. Renewal. Such license shall be renewed annually upon the payment of the same fee as provided in this section for the original license, such renewal to take effect on the first day of February of each year. The secretary of state may refuse to issue or renew a license if he deems the applicant not qualified to receive such license, but the refusal of the secretary of state may be reviewed by writ of certiorari. For renewals to take effect on and after February first, nineteen hundred and twelve, the fee shall be two dollars. [*Subd. 5 added by L. 1910, ch. 374; am'd by L. 1911, ch. 491.*]

Original §§ 281, 302-306 of the Highway Law, relative to chauffeurs, were repealed by L. 1910, ch. 374.

LICENSING OF MOVING-PICTURE MACHINE OPERATORS

THE GENERAL CITY LAW, CHAPTER 21 OF THE CONSOLIDATED LAWS

§ 18. License to operate moving picture apparatus.—It shall not be lawful for any person or persons to operate any moving picture apparatus and its connections in a city of the first class unless such person or persons so operating such apparatus is duly licensed as hereinafter provided. Any person desiring to act as such operator shall make application for a license to so act to the mayor or licensing authority designated by the mayor, unless the charter of said city so designates, which officer shall furnish to each applicant blank forms of application which the applicant shall fill out. Such officer shall make rules and regulations governing the examination of applicants and the issuance of licenses and certificates. A license shall not be granted to an applicant unless he shall have served as an apprentice under a licensed operator, for a period of not less than six months prior to the date of the application; the application must be made in writing, and contain a verified statement to that effect; it must be accompanied by the affidavit of the licensed operator to the same effect; before entering upon the period of apprenticeship the applicant must register his name and address with the officer issuing such license. The applicant shall be given a practical examination under the direction of the officer required to issue such license and if found competent as to his ability to operate moving picture apparatus and its connections shall receive within six days after such examination a license as herein provided. Such license may be revoked or suspended at any time by the officer issuing the same. Every license shall continue in force for one year from the date of issue unless sooner revoked or suspended. Every license, unless revoked or suspended, as herein provided, may at the end of one year from the date of issue thereof be renewed by the officer issuing it in his discretion upon application and with or without further examination as he may direct. Every application for renewal of license must be made within the thirty days previous to the expiration of such license. With every license granted there shall be issued to every person obtaining such license a certificate, certifying that the person named therein is duly authorized to operate moving picture apparatus and its connections. Such certificate shall be displayed in a conspicuous place in the room where the person to whom it is

issued operates moving picture apparatus and its connections. No person shall be eligible to procure a license unless he shall be of full age. Any person offending against the provisions of this section, as well as any person who employs or permits a person not licensed as herein provided to operate moving picture apparatus and its connections, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars, or imprisonment for a period not exceeding three months, or both. [*Added by L. 1911, ch. 252.*]

LAWS OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER NEW YORK

§ 529-a. No person to operate moving picture apparatus and its connections without a license.—It shall not be lawful for any person or persons to operate any moving picture apparatus and its connections in the city of New York unless such person or persons so operating such apparatus is duly licensed as hereinafter provided. Any person desiring to act as such operator shall make application for a license to so act to the commissioner of water supply, gas and electricity of the city of New York who shall furnish to each applicant blank forms of application which the applicant shall fill out.

The commissioner of water supply, gas and electricity shall make rules and regulations governing the examination of applicants and the issuance of licenses and certificates.

The applicant shall be given a practical examination under the direction of the commissioner of water supply, gas and electricity and if found competent as to his ability to operate moving picture apparatus and its connections shall receive within six days after such examination a license as herein provided. Such license may be revoked or suspended at any time by the commissioner of water supply, gas and electricity. Every license shall continue in force for one year from the date of issue unless sooner revoked or suspended. Every license, unless revoked or suspended, as herein provided, may at the end of one year from the date of issue thereof be renewed by the commissioner of water supply, gas and electricity in his discretion upon application and with or without further examination as said commissioner may direct. Every application for renewal of license must be made within the thirty days previous to the expiration of such license. With every license granted there shall be issued to every person obtaining such license a certificate, made by the commissioner of water supply, gas and electricity or such other officer as such commissioner may designate, certifying that the person named therein is duly authorized to operate moving picture apparatus and its connections. Such certificate shall be displayed in a conspicuous place in the room where the person to whom it is issued operates moving picture apparatus and its connections. No person shall be eligible to procure a license unless he shall be a citizen of the United States and of full age. Any person offending against the provisions of this section, as well as any person who employs or permits a person not licensed as herein provided to operate moving picture apparatus and its connections, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars or imprisonment for a period not exceeding three months, or both, in the discretion of the court. [*Added by L. 1910, ch. 654.*]

**INSPECTION OF STEAM BOILERS AND LICENSING OF STEAM ENGINEERS IN
NEW YORK CITY *****LAWS OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER
NEW YORK**

§ 342. Steam boilers; inspection of; not to be operated without certificate. — Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall annually, and at such convenient times and in such manner and in such form as may by rules and regulations to be made therefor by the police commissioner be provided, report to the said department the location of each steam boiler or boilers, and thereupon, and as soon thereafter as practicable, the sanitary company or such member or members thereof as may be competent for the duty herein described, and may be detailed for such duty by the police commissioner shall proceed to inspect such steam boilers, and all apparatus and appliances connected therewith; but no person shall be detailed for such duty except he be a practical engineer, and the strength and security of each boiler shall be tested by atmospheric and hydrostatic pressure and the strength and security of each boiler or boilers so tested shall have, under the control of said sanitary company, such attachments, apparatus and appliances as may be necessary for the limitation of pressure, locked and secured in like manner as may be from time to time adopted by the United States inspectors of steam boilers or the secretary of the treasury, according to act of Congress, passed July twenty-fifth, eighteen hundred and sixty-six; and they shall limit the pressure of steam to be applied to or upon such boiler, certifying each inspection and such limit of pressure to the owner of the boiler inspected, and also to the engineer in charge of same, and no greater amount of steam or pressure than that certified in the case of any boiler shall be applied thereto. In limiting the amount of pressure, wherever the boiler under test will bear the same, the limit desired by the owner of the boiler shall be the one certified. Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall, for the inspection and testing of such or each of such boilers, as provided for in this act, and upon receiving from the police department a certificate setting forth the location of the boiler inspected, the date of such inspection, the persons by whom the inspection was made, and the limit of steam pressure which shall be applied to or upon such boiler or each of such boilers pay annually to the police commissioner for each boiler, for the use of the police pension fund, the sum of two dollars, such certificate to continue in force for one year from the granting thereof when it shall expire, unless sooner revoked or suspended. Such certificate may be renewed upon the payment of a like sum and like conditions, to be applied to a like purpose. It shall not be lawful for any person or persons, corporation or corporations, to have used or operated within The City of New York any steam boiler or boilers except for heating purposes and for railway locomotives, without having first had such boiler or boilers inspected or tested and procured for such boiler or each of such boilers so used or operated the certificate herein provided for. The superintendent and inspectors of boilers, in the employ of the police department, in the city of Brooklyn, and the boiler inspectors in

* For statute regulating examination of stationary engineers in Buffalo, see the charter, L. 1914, ch. 218, § 13, subd. 5. As to general responsibility of persons in charge of steam boilers, see Penal Law, §§ 1052, 1893, given in part, p 212, *ante*.

Long Island City, shall continue to discharge the duties heretofore devolved upon them, subject, however, to removal for cause, or when they are no longer needed.

§ 343. No person to use, or act as engineer for, without certificate.—It shall not be lawful for any person or persons to operate or use any steam boiler to generate steam except for railway locomotive engines, and for heating purposes in private dwellings, and boilers carrying not over ten pounds of steam and not over ten horse-power, or to act as engineer for such purposes in The City of New York without having a certificate of qualification therefor from practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of The City of New York and to continue in force one year, unless sooner revoked or suspended. Such certificate may be revoked or suspended at any time by the police commissioner upon the report of any two practical engineers, detailed as provided in this section, stating the grounds upon which such certificate should be revoked or suspended. Where such certificate shall have been revoked, as provided in this section, a like certificate shall not in any case be issued to the same person within six months from the date of the revocation of the former certificate held by such person.

LAWS OF 1897, CHAPTER 635, AMENDING SECTION 312 OF THE NEW YORK CITY
CONSOLIDATION ACT (LAWS OF 1882, CHAPTER 410)

And no owner, or agent of such owner, or lessee of any steam boiler to generate steam, shall employ any person as engineer or to operate such boiler unless such person shall first obtain a certificate as to qualification therefor from a board of practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of the city of New York. In order to be qualified to be examined for and to receive such certificate of qualification as an engineer, a person must comply, to the satisfaction of said board, with the following requirements:

1. He must be a citizen of the United States and over twenty-one years of age.

2. He must, on his first application for examination, fill out, in his own handwriting, a blank application to be prepared and supplied by the said board of examiners, and which shall contain the name, age, and place of residence of the applicant, the place or places where employed and the nature of his employment for five years prior to the date of his application, and a statement that he is a citizen of the United States. The application shall be verified by him, and shall, after the verification, contain a certificate signed by three engineers, employed in New York city, and registered on the books of said board of examiners as engineers working at their trade, certifying that the statements contained in such application are true. Such application shall be filed with said board.

3. The following persons, who have first complied with the provisions of subdivisions one and two of this section, and no other persons may make application to be examined for a license to act as engineer.

a. Any person who has been employed as a fireman, as an oiler, or as a

general assistant under the instructions of a licensed engineer in any building or buildings in the city of New York, for a period of not less than five years.

b. Any person who has served as a fireman, oiler or general assistant to the engineer on any steamship or steamboat, for a period of five years, and shall have been employed for two years under a licensed engineer in a building in the city of New York, or any person who has served as a marine or locomotive engineer or fireman to a locomotive engineer for a period of five years and shall have been a resident of the state of New York for a period of two years. [*As am'd by L. 1900, ch. 461.*]

c. Any person who has learned the trade of machinist, or boiler maker or steamfitter and worked at such trade for three years exclusive of time served as apprentice, or while learning such trade, and also any person who has graduated as a mechanical engineer from a duly established school of technology, after such person has had two years' experience in the engineering department in any building or buildings in charge of a licensed engineer in the city of New York.

d. Any person who holds a certificate as engineer issued to him by any duly qualified board of examining engineers existing pursuant to law in any state or territory of the United States and who shall file with his application a copy of such certificate and an affidavit that he is the identical person to whom said certificate was issued. If the board of examiners of engineers shall determine that the applicant has complied with the requirements of this section he shall be examined as to his qualifications to take charge of, and operate steam boilers and steam engines in the city of New York, and if found qualified said board shall issue to him a certificate of the third class. After the applicant has worked for a period of two years under his certificate of the third class, he may be again examined by said board for a certificate of the second class and if found worthy the said board may issue to him such certificate of the second class, and after he has worked for a period of one year under said certificate of the second class he may be examined for a certificate of the first class; and when it shall be made to appear to the satisfaction of said board of examiners that the applicant for either of said grades lacks mechanical skill, is a person of bad habits or is addicted to the use of intoxicating beverages he shall not be entitled to receive such grade of license and shall not be re-examined for the same until after the expiration of one year. Every owner or lessee, or the agent of the owner or lessee, of any steam boiler, steam generator, or steam engine aforesaid, and every person acting for such owner or agent is hereby forbidden to delegate or transfer to any person or persons other than the licensed engineer the responsibility and liability of keeping and maintaining in good order and condition any such steam boiler, steam generator or steam engine, nor shall any such owner, lessee or agent, enter into a contract for the operation or management of a steam boiler, steam generator or steam engine, whereby said owner, lessee or agent shall be relieved of the responsibility or liability for injury which may be caused to person or property by such steam boiler, steam generator or steam engine. Every engineer holding a certificate of qualification from said board of examiners shall be responsible to the owner, lessee, or agent employing him for the good care, repair, good order and management of the steam boiler, steam generator or steam engine in charge of, or run or operated by such engineer.

e. Any person or persons violating any provision of this section or of any of its subdivisions shall be guilty of a misdemeanor. [Added by L. 1900, ch. 709.]

LICENSING OF STATIONARY FIREMEN IN NEW YORK CITY
LAWS OF 1901, CHAPTER 733

AN ACT to provide for the licensing of firemen operating steam stationary boiler or boilers in the city of New York

Section 1. It shall be unlawful for any fireman or firemen to operate steam stationary boiler or boilers in the city of New York, unless the fireman or firemen so operating such boiler or boilers are duly licensed as hereinafter provided. Such fireman or firemen to be under the supervision and direction of a duly licensed engineer or engineers.

§ 2. Should any boiler or boilers be found at any time operated by any person who is not a duly licensed fireman or engineer as provided by this act, the owner or lessee thereof shall be notified, and if after one week from such notification the same boiler or boilers is again found to be operated by a person or persons not duly licensed under this act, it shall be deemed prima facie evidence of a violation of this act.

§ 3. Any person desiring to act as a fireman shall make application for a license to so act, to the steam boiler bureau of the police department as now exists for licensing engineers, who shall furnish to each applicant blank forms of application, which application when filled out, shall be signed by a licensed engineer engaged in working as an engineer in the city of New York, who shall therein certify that the applicant is of good character, and has been employed as oiler, coalpasser or general assistant under the instructions of a licensed engineer on a building or buildings in the city of New York, or on any steamboat, steamship or locomotive for a period of not less than two years. The applicant shall be given a practical examination by the board of examiners detailed as such by the police commissioner and if found competent as to his ability to operate a steam boiler or boilers as specified in section one of this act shall receive within six days after such examination a license as provided by this act. Such license may be revoked or suspended at any time by the police commissioner upon the proof of deficiency. Every license issued under this act shall continue in force for one year from the date of issue unless sooner revoked as above provided. Every license issued under this act unless revoked as herein provided shall at the end of one year from date of issue thereof, be renewed by the board of examiners upon application and without further examination. Every application for renewal of license must be made within thirty days of the expiration of such license. With every license granted under this act there shall be issued to every person obtaining such license a certificate, certified by the officers in charge of the boiler inspection bureau. Such certificate shall be placed in the boiler room of the plant operated by the holder of such license, so as to be easily read.

§ 4. No person shall be eligible to procure a license under this act unless the said person be a citizen of the United States.

§ 5. All persons operating boilers in use upon locomotives or in government buildings, and those used for heating purposes carrying a pressure not exceeding ten pounds to the square inch, shall be exempt from the provisions of this act. Such license will not permit any person other than a duly licensed engineer to take charge of any boiler or boilers in the city of New York.

TRADE UNIONS

[No special provision is made by the statutes of New York for incorporation of trade unions as business organizations. An association of workmen for the purpose of undertaking co-operative insurance may incorporate under the Insurance Law; but nothing in this law or any of the laws relating to stock corporations provides for the actual business of trade unions in contracting with employers as the agents of the employees. This primary object of trade unions finds no recognition, of course, in the non-stock corporation laws; although the unions that have incorporated in New York have done so under the Membership Corporations Law, which applies to benevolent, charitable, scientific and missionary societies.

Trade unions do not in fact find incorporation necessary in order to obtain legal standing in the courts, since the law of this state has provided since 1851 that an unincorporated association consisting of seven or more persons may sue and be sued in the name of its president and treasurer (§§ 1919, 1921, of the Code of Civil Procedure, as below).

Disobedience of an injunction addressed to an unincorporated association and "its each and every member" constitutes a criminal contempt even if the violators were not personally served with the order: *People ex rel. Stearns v. Marr*, 181 N. Y. 408 (1905).

As to union labels, see §§ 15 and 16 of the Labor Law, p. 17, *ante*.]

A union member deprived of membership without a fair trial may seek redress in the civil courts: *Williamson v. Randolph*, 48 Misc. 96; *Schouten v. Alpine*, 77 Misc. 19; *People ex rel. Holstrom v. I. D. B. Union*, 164 App. Div. 207.

ACTION BY OR AGAINST AN UNINCORPORATED ASSOCIATION

CODE OF CIVIL PROCEDURE, ARTICLE I OF TITLE V OF CHAPTER XV

§ 1919. An action or special proceeding may be maintained, by the president or treasurer of an unincorporated association, consisting of seven or more persons, to recover any property, or upon any cause of action, for or upon which all the associates may maintain such an action or special proceeding, by reason of their interest or ownership therein, either jointly or in common. An action may likewise be maintained by such president or treasurer to recover from one or more members of such association his or their proportionate share of any moneys lawfully expended by such association for the benefit of such associates, or to enforce any lawful claim of such association against such member or members. An action or special proceeding may be maintained, against the president or treasurer of such an association, to recover any property, or upon any cause of action, for or upon which the plaintiff may maintain such an action or special proceeding, against all the associates, by reason of their interest or ownership, or claim of ownership therein, either jointly or in common, or their liability therefor, either jointly or severally. Any partnership, or other company of persons, which has a president or treasurer, is deemed an association within the meaning of this section. [*As am'd by L. 1900, ch. 184.*]

The action, though in form against such officer, is in substance and reality against the association: *Mason v. Holmes*, 30 Misc. 719.

§ 1921. In such an action the officer against whom it is brought cannot be arrested; and a judgment against him does not authorize an execution to be issued against his property, or his person; nor does the docketing thereof bind his real property, or chattels real. Where such a judgment is for a sum

of money, an execution issued thereupon must require the sheriff to satisfy the same, out of any personal or real property belonging to the association, or owned, jointly or in common, by all the members thereof. [*As am'd by L. 1898, ch. 293.*]

An action for damages held to lie against an unincorporated trade union, *Curran v. Galen*, 152 N. Y. 33 (1897); see also *Connell v. Stalker*, 20 Misc. 423 (1897); *Coons v. Chrystle*, 24 Misc. 296 (1898); *Matthews v. Shankland*, 25 Misc. 604 (1898); *Beattie v. Callanan*, 67 App. Div. 14 (1901).

AUTHORIZING THE INCORPORATION OF LABOR ORGANIZATIONS FOR BENEVOLENT PURPOSES

THE MEMBERSHIP CORPORATIONS LAW, CHAPTER 35 OF THE CONSOLIDATED LAWS

§ 40. Purposes for which corporations may be formed under this article.—A membership corporation may be created under this article for any lawful purpose, except a purpose for which a corporation may be created under any other article of this chapter, or any other general law than this chapter.

Reviser's Note.—“This section is intended to make one complete general statement, including every object for which membership corporations ought to be permitted under a general law, instead of a long enumeration of particular purposes, requiring new legislation whenever incorporation is desired for a new purpose. The definition of a membership corporation in section 2 will prevent the formation of a stock corporation or of a mutual benefit insurance corporation under this article. See *Matter of Lampson*, 35 App. Div. 49, *aff'd* in 161 N. Y. 511; *People v. Johnson*, 22 Misc. 150.”

§ 41. Certificates of incorporation.—Five or more persons may become a membership corporation for any one of the purposes for which a corporation may be formed under this article or for any two or more of such purposes of a kindred nature, by making, acknowledging and filing a certificate, stating the particular objects for which the corporation is to be formed, each of which must be such as is authorized by this article; the name of the proposed corporation; the territory in which its operations are to be principally conducted; the town, village or city in which its principal office is to be located, if it be then practicable to fix such location; the number of its directors, not less than three nor more than thirty; and the names and places of residence of the persons to be its directors until its first annual meeting. Such certificate shall not be filed without the written approval, indorsed thereupon or annexed thereto, of a justice of the supreme court. * * * On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate. * * *

AUTHORIZING LABOR ORGANIZATIONS TO MAINTAIN OR CONSTRUCT BUILDINGS, HALLS OR LIBRARIES FOR THEIR USE

THE BENEVOLENT ORDERS LAW, CHAPTER 3 OF THE CONSOLIDATED LAWS

§ 7. Joint corporations.—* * * any number of trades unions, trades assemblies, trades associations or labor organizations * * * may unite in forming a corporation for the purpose of acquiring, constructing, maintaining and managing a hall, temple or other building, or a home for the aged and indigent members of such order and their dependent widows and orphans, and of creating, collecting, and maintaining a library for the use of the bodies uniting to form such corporation. Each body hereafter uniting to form such

corporation shall, at a regular meeting thereof, held in accordance with its constitution and general rules and regulations or by-laws, elect a member thereof for a term of three years to represent it in such corporation. * * *

The trustees so elected shall make, acknowledge and file with the secretary of state a certificate stating the name of the corporation to be formed, its purposes and objects, the names and places of residence of the trustees, the names of the bodies which they respectively represent, the names of the bodies uniting to form the corporation and their location, and the name of the town, village or city and the county where such building is, or is to be located; and thereupon the several bodies so uniting shall be a corporation for the purposes specified in such certificate. [*As am'd by L. 1914, ch. 509.*]

§ 9. Powers of joint corporations.—Such corporation may acquire real property in the town, village or city in which such hall, home, temple or building is or is to be located, and erect such building or buildings thereupon for the uses and purposes of the corporation, as the trustees may deem necessary, or repair, rebuild or reconstruct any building or buildings that may be thereupon and furnish and complete such rooms therein as may appear necessary for the use of such bodies or for any other purpose for which the corporation is formed; and may rent to other persons any portion of such building or real property for business or other purposes. Until such real property shall be acquired or such building erected or made ready for use, the corporation may rent and sublet such rooms or apartments in such town, village or city as may be suitable or convenient for the use of the bodies mentioned in such certificate, or of such other bodies as may desire to use them, and the board of trustees may determine the terms and conditions on which rooms and apartments in such building or buildings, when erected, or which may be leased, shall be used and occupied. Before such corporation composed of not more than thirty bodies shall purchase or sell any real property, or erect or repair any building or buildings thereupon, and before it shall purchase any building or part of a building for the use of a corporation, it shall submit to the bodies constituting the corporation, the proposition to make such sale or purchase, or to erect or repair any such building or buildings, or to rent any building or part thereof, for the use of the corporation; and unless such proposition receives the approval of two-thirds of the bodies constituting the corporation, such proposition shall not be carried into effect. The evidence of the approval of such proposition by any such body shall be a certificate to that effect signed by the presiding officer and secretary of the body, or the officers discharging duties corresponding to those of the presiding officer and secretary, under the seal of such body. But where land is purchased for the purpose of erecting a hall, home or temple thereon, the buildings upon such land at the time of such purchase may be sold by the trustees without such consent. The powers of the board of trustees of every corporation created hereunder and composed of more than thirty bodies, respecting sales, purchases and repairs, shall be fixed by the by-laws adopted by the representatives of the various bodies composing such corporation, or shall be determined by such representatives when assembled in annual session. Every corporation created hereunder shall have power to enforce, at law or in equity, any legal contract which it may make with any of the bodies composing it respecting the care and maintenance of members or other dependents of such body, the same as if such body or bodies were not members

of the corporation. Any corporation created hereunder shall have power to take and hold real and personal estate by purchase, gift, devise or bequest subject to the provisions of law relating to devises and bequests by last will and testament or otherwise. [*As am'd by L. 1913, ch. 11.*]

FORBIDDING LABOR ORGANIZATIONS TO DISCRIMINATE AGAINST MEMBERS OF THE NATIONAL GUARD

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 481. Discrimination against members of the national guard.—No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the national guard of the state of New York, because of such membership in respect of the eligibility of such member of the said national guard to membership in such association or corporation, or in respect of his right to retain said last mentioned membership; it being the purpose of this section and the section immediately preceding to protect a member of the said national guard from disadvantage in his means of livelihood and liberty therein but not to give him any preference or advantage on account of his membership of said national guard. A person who aids in enforcing any such provisions against a member of the said national guard with the intent to discriminate against him because of such membership, is guilty of a misdemeanor.

PREVENTING FRAUDULENT REPRESENTATION IN LABOR ORGANIZATIONS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1278. Fraudulent representation in labor organizations.—Any person who represents himself or herself to be a member of, or who claims to represent a labor organization which does not exist within the state, at the time of such representation, or who has in his or her possession a credential, certificate or letter of introduction bearing a fraudulent seal, or bearing the seal of a labor organization which has ceased to exist, and does not exist at the time of such representation, and attempts to gain admission by the use of said credential, certificate or letter of introduction, as a member of any convention, or meeting of representatives of labor organizations of the state, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than twenty dollars nor more than fifty dollars, and imprisonment for not less than ten days nor more than thirty days in the jail of the county wherein such conviction is had, or by both such fine and imprisonment.

UNAUTHORIZED USE OF BADGES, TITLES, ETC.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 2240. Unauthorized wearing or use of badge, name, title of officers, insignia, ritual or ceremony of certain orders and societies.—1. Any person who wilfully wears the badge or the button of * * * any society, order or organization, of ten years' standing in the state of New York, or uses the same to obtain aid or assistance within this state, or wilfully uses the name of such society, order or organization, the titles of its officers, or its insignia, ritual or ceremonies, unless entitled to use or wear the same under the constitution and by-laws, rules and regulations of such order or of

such society, order or organization, is guilty of a misdemeanor. [*As am'd by L. 1914, ch. 149.*]

UNLAWFUL TO COMPEL EMPLOYEES TO AGREE NOT TO JOIN LABOR ORGANIZATIONS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 531. Coercion by employers.—Any person or employer of labor, and any person of any corporation on behalf of such corporation, who shall hereafter coerce or compel any person, employee, laborer or mechanic, to enter into an agreement, either written or verbal, from such person, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person securing employment, or continuing in the employment of any such person, employer or corporation, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

This statute imposes an unauthorized restraint upon the freedom to contract in relation to the purchase and sale of labor, and is unconstitutional: *People v. Marcus*, 185 N. Y. 257 (1906).

UNLAWFUL TO BRIBE REPRESENTATIVES OF LABOR ORGANIZATIONS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 380. Bribery of labor representatives.—A person who gives or offers to give any money or other things of value to any duly appointed representative of a labor organization with intent to influence him in respect to any of his acts, decisions, or other duties as such representative, or to induce him to prevent or cause a strike by the employees of any person or corporation, is guilty of a misdemeanor; and no person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of this section, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding.

Compare "Corrupt influencing of employees," Penal Law, § 439, p. 213, *ante*.

INDUSTRIAL DISPUTES*

[The "right to strike," i. e., to quit work in concert, is controlled by the statutes and judicial decisions respecting combinations. Sections 580 and 582 of the Penal Law define conspiracies, or unlawful combinations. The latter section expressly legalizes a combination (strike) for the purpose of maintaining or advancing the rate of wages, and the courts have broadened this authorization to include any peaceable and orderly strike of wage workers, *not to harm others but to improve their own condition*, within which lawful purpose may be a strike by a trade union to procure the discharge of an outsider and the employment of its own members: *Nat'l Protective Assn. v. Cumming*, 170 N. Y. 315; *Wunch v. Shankland*, 179 N. Y. 545, *Mem.* But concerning strikes for the "closed shop," see that topic below. Similarly, a lockout is legal if no malice is shown: *City Trust, Safe Deposit & Surety Co. v. Waldhauer*, 47 Misc. 7.

INTIMIDATION.—A strike that has a lawful purpose becomes unlawful if conducted by unlawful means. Thus it is contrary to law to use or threaten to use violence, force or intimidation in the prosecution of a strike (§ 530 of the Penal Law, defining coercion); or to endanger life by refusal to labor (§ 1910); or interfere with passengers in public conveyances (§ 720), etc.

Violation of an injunction order against illegal interference with new employees or the part of strikers constitutes criminal contempt and is punishable as such even though the individual members of the union were not personally served with the order: *People ex rel. Stearns v. Marr*, 181 N. Y. 463 (1905).

PICKETING is not defined by statute, but by the interpretation placed by the courts on the above-mentioned laws relating to coercion. One of the most authoritative discussions of "picketing" by Federal courts is in *Union Pacific Ry. Co. v. Ruck* (120 Fed. Rep. 102), and by the New York courts in a unanimous decision of the Second Appellate Division, December, 1904, which is, in part, as follows:

"'Picketing' may simply mean the stationing of men for observation. If in the doing of this act, solely for such purpose, there be no molestation or physical annoyance, or let or hindrance of any person then it can not be said that such an act is, *per se*, unlawful. But 'picketing' may also mean the stationing of a man or men to coerce or to threaten, or to intimidate or to halt or to turn aside against their will those who would go to and from the picketed place to do business, or to work, or to seek work therein, or in some other way to hamper, hinder, or harass the free dispatch of business by the employer. In that case, picketing may well be said to be unlawful. * * * I may add that I am not prepared to say that all picketing which goes no further than 'persuasion and entreaty' of those who are about to work or to seek work or to do business in the picketed place is absolutely lawful. A wayfarer upon the public street should be free for peaceful travel. No man against my will has the legal right to occupy the public street to arrest my course or to join me on my way, be he ever so polite or gentle in his insistence. There may be no intimidation, and yet an interruption of peaceful travel. There may be annoyance without danger": *Mills v. U. S. Printing Co.*, 99 App. Div. 605.

BOYCOTTING.—The ruling of the Court of Appeals in the *Cumming* case, cited above, modified the law regarding boycotts, so that the courts do not find in a boycott *per se* the malicious purpose, or an attempt to injure, that constitutes conspiracy: *Foster v. Retail Clerks' Protective Association*, 39 Misc. 48 (1902); *Butterick Pub. Co. v. Typographical Union No. 6*, 50 Misc. 1 (1906). The injury inflicted may be only an incident of the act whereby the ultimate end is gained: *Mills v. U. S. Print. Co.*, 99 App. Div. 605. In this case the court unanimously indorsed Bouvier's statement, "A boycott is not unlawful unless attended with some act which in itself is illegal," and continued: "I think that the verb 'to boycott' does not necessarily signify that the doers employ violence, intimidation or other unlawful coercive means, but that it may be correctly used in the sense of the act of a combination in refusing to have business dealings with another until he removes or ameliorates conditions which are deemed inimical to the wel-

* For posting of notice of strikes or lockouts in public employment offices, and refusal to accept employment, see Labor Law, §§ 66-g, 66-h, p. 84, *ante*.

fare of the members of the combination, or some of them, or grants concessions which are deemed to make for that purpose. And as such a combination may be formed and held together by argument, persuasion, entreaty or by the 'touch of nature,' and may accomplish its purpose without violence or other unlawful means, i. e., simply by abstention, I think it cannot be said that 'to boycott' is to offend the law." In agreement with this view, see the opinion of the Supreme Court of Missouri (1901) in *Marx & Hass Jeans Clothing Co. v. Watson* (67 S. W. Rep. 391). On the other hand, the earlier rule is maintained in the cases of *Davis Machine Co. v. Robinson* (41 Misc. 329) and *People v. McFarlin* (43 Misc. 599). A boycott which affects inter-state commerce is illegal under the Federal anti-trust law: *Loewe v. Lawlor*, 208 U. S. 274 (the hatters' case).

BLACKLISTING.—The blacklist is in principle a form of the boycott, but is carried on in such secrecy that it has seldom come before the courts.

THE "CLOSED SHOP."—It has been held that an agreement providing for the closed shop; i. e., exclusive employment of members of a trade union, is not in violation of law and will be enforced by the courts: *Jacobs v. Cohen*, 183 N. Y. 207 (1905); *Nat'l Fire Proofing Co. v. Mason Builders' Assn.*, 145 Fed. Rep. 260, (June, 1906); *Kissam v. U. S. Printing Co.*, 199 N. Y. 76, affirming 128 App. Div. 889. But no agreement whatever makes it lawful for members of a union to coerce or maliciously interfere with non-union men: *Curran v. Galen*, 52 N. Y. 33, decided in 1897 and reaffirmed in *Jacobs* case just cited. *Cf.* also *Beattie v. Callanan*, 82 App. Div. 7. Further, a strike for a closed shop throughout an entire trade in a locality has been held illegal as constituting conspiracy to deprive men of the exercise of the right to work: *Schwartz v. Int'l Ladies' Garment Workers' Union*, 68 Misc. 528. Similarly a requirement by employers generally in a community that employees must be members of a particular union is illegal: *McCord v. Thompson-Starrett Co.*, 129 App. Div. 130, aff'd in 198 N. Y. 587. A strike to prevent use by a union firm of materials manufactured by a non-union firm has been held both illegal on the ground of unlawful interference with an employer's freedom: *Irving v. Joint District Council*, 180 Fed. Rep. 896; *Newton Co. v. Erickson*, 70 Misc. 291; and legal as within the rights of workmen: *Bossert v. United Brotherhood of Carpenters and Joiners*, 77 Misc. 592; also a strike to prevent manufacture of goods for a non-union firm: *Schlang v. Ladies' Waist Makers' Union*, 67 Misc. 222; both these being regarded as unlawful interference with an employer's freedom. An agreement binding workmen to work only for members of an employers association has been held illegal: *People v. Miller* in Magistrate's Court, New York City, August 20, 1904.

CONSPIRACY, INTIMIDATION, EXTORTION, ETC.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 580. Definition and punishment of conspiracy.—If two or more persons conspire:

1. To commit a crime; or
2. To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements or property belonging to or used by another, or with the use or employment thereof; or
3. To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws;

Each of them is guilty of a misdemeanor.

§ 581. Conspiracies against peace of the state.—If two or more persons, being out of this state, conspire to commit any act against the peace of this state, the commission or attempted commission of which, within this state, would be treason against the state, they are punishable by imprisonment in a state prison not exceeding ten years.

§ 582. Punishable conspiracies.—No conspiracy is punishable criminally unless it is one of those enumerated in the last two sections, and the orderly and peaceable assembling or co-operation of persons employed in any calling, trade or handicraft for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not a conspiracy.

§ 1910. Endangering life by refusal to labor.—A person who wilfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing, or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

§ 1480. Depriving members of national guard of employment.—A person who, either by himself or with another, wilfully deprives a member of the national guard of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said national guard, or his employer, in respect of his trade, business, or employment, because said member of said national guard is such member, or dissuades any person from enlistment in the said national guard by threat of injury to him in case he shall so enlist, in respect of his employment, trade, or business, is guilty of a misdemeanor.

§ 530. Coercing another person a misdemeanor.—A person, who with a view to compel another person to do or to abstain from doing an act which such other has a legal right to do or to abstain from doing, wrongfully and unlawfully,

1. Uses violence or inflicts injury upon such other person or his family, or a member thereof, or upon his property, or threatens such violence or injury; or

2. Deprives any such person of any tool, implement, or clothing, or hinders him in the use thereof; or

3. Uses or attempts the intimidation of such person by threats or force;

Is guilty of a misdemeanor.

One who advises or induces another to commit assault or attempt other intimidation is also guilty of violating this prohibition, thus:

§ 2. *Definition of principal.*—A person concerned in the commission of a crime, whether he directly commits the act constituting the offense or aids and abets in its commission, and whether present or absent, and a person who directly or indirectly counsels, commands, induces or procures another to commit a crime, is a principal.

§ 850. Extortion defined.—Extortion is the obtaining of property from another, with his consent, induced by a wrongful use of force or fear, or under cover of official right.

§ 851. What threats may constitute extortion.—Fear, such as will constitute extortion, may be induced by an oral or written threat:

1. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his or to any member of his family; or,

2. To accuse him, or any relative of his or any member of his family, of any crime; or,

3. To expose, or impute to him, or any of them, any deformity or disgrace; or,

4. To expose any secret affecting him or any of them; or,

5. To kidnap him or any relative of his or member of his family; or

[Subd. 5, added by L. 1911, ch. 802.]

6. To injure his person or property or that of any relative of his or member of his family by the use of weapons or explosives. [*Subd. 6 added by L. 1911, ch. 602. Section 851 am'd by L. 1911, chs. 121 and 602.*]

§ 852. Punishment of extortion.—A person who extorts any money or other property from another, under circumstances not amounting to robbery, is punishable by imprisonment not exceeding fifteen years, if the same is done by means of force or a threat mentioned in section eight hundred and fifty or in either of the first four subdivisions of section eight hundred and fifty-one, and by imprisonment for not less than five years nor more than twenty years if the same is done by means of a threat mentioned in subdivisions five or six of the latter section. [*As am'd by L. 1909, ch. 368; and L. 1911, ch. 602.*]

Obtaining money by threats or by the continuance of a boycott as described constitutes the crime of extortion under the above sections. Those present and abetting when the money is paid or uniting in the acts that lead to the payment or the agreement to pay, though not present when the money is received, are each liable as principals. Whether the money is shared personally or placed in a fund to pay the expenses of the boycott is of no consequence as affecting the crime: *People v. Wilzig*, N. Y. Cr. 403 (1886). A labor leader was convicted of extortion for having accepted a sum of money from an employer to pay for "waiting time," as alleged, of the striking employees: *People v. Barondess*, 41 N. Y. 659 (1891). Defendant, the head of a labor organization, was properly charged with extortion when evidence showed that he had demanded and received money as the price of abandoning a boycott undertaken to coerce plaintiffs into obedience to his commands as to the number of apprentices they should employ: *People v. Hughes*, 137 N. Y. 29 (1893). Defendant, president of a labor union, was convicted of extortion because he had obtained money from a contractor under threat of continuing a strike: *People v. Weinsheimer*, 117 App. Div. 603 (Feb. 1907).

§ 720. Relating to disorderly conduct on public conveyances.—Any person who shall by any offensive or disorderly act or language, annoy or interfere with any person in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor.

§ 43. Penalty for acts for which no punishment is expressly prescribed.—A person who wilfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this chapter, is guilty of a misdemeanor; but nothing in this chapter contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered.

THE "ANTI-PINKERTON" ACT: PROHIBITING THE APPOINTMENT OF NON-RESIDENTS AS SPECIAL OFFICERS TO PRESERVE THE PUBLIC PEACE

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1845. **Special peace officers to be citizens.**—No sheriff of a county, mayor of a city, or officials, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen, or other peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation, or otherwise, appoint as such special deputy, special constable, marshal, policeman, or other peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and a resident of the same county as the mayor or sheriff or other official making such appointment; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal or policeman, or other peace officer, without having first received his appointment in writing from the authority lawfully appointing him.

A violation of the provisions of this section is a misdemeanor.

§ 1846. **Making arrest without lawful authority.**—Any person who shall, in this state, without due authority, exercise, or attempt to exercise the functions of, or hold himself out to any one as a deputy sheriff, marshal, or policeman, constable or peace officer, or any public officer, or person pretending to be a public officer, who, unlawfully, under the pretense or color of any process, arrests any person or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or tenements without a regular process therefor, is guilty of a misdemeanor. But nothing herein contained shall be deemed to affect, repeal or abridge the powers authorized to be exercised under sections one hundred and two, one hundred and four, one hundred and sixty-nine, one hundred and eighty-three, eight hundred and ninety-five, eight hundred and ninety-six and eight hundred and ninety-seven of the code of criminal procedure; or under section ninety of the railroad law; or under section eleven hundred and forty-seven of this chapter. All places kept for summer resorts and the grounds of racing associations in the counties of New York, Kings and Westchester, are hereby exempted from the provisions of this section.

Compare Railroad Law, § 88, p. 255, *ante*.

REGULATION OF EMPLOYMENT AGENCIES, BOARDING HOUSES, ETC.*

EMPLOYMENT AGENCIES IN CITIES

[The original act, L. 1904, ch. 432, afterwards amended by L. 1906, ch. 327, from which the following sections were derived, was held to be a constitutional exercise of the police power: *People ex rel. Armstrong v. Warden of the City Prison*, 183 N. Y. 228 (1905).]

The department of licenses of New York City, created by L. of 1914, ch. 475, has jurisdiction "of all licenses issued under the provisions of article eleven of the General Business Law, so far as it applies to the city of New York." (Greater New York charter, § 641, subds. 3, 5.)

GENERAL BUSINESS LAW, CHAPTER 20 OF THE CONSOLIDATED LAWS

ARTICLE 11

[As am'd by L. 1910, ch. 700]

Employment Agencies

Section 170. Application of article.

171. Definitions.

172. License required.

173. Application for license.

174. Procedure upon application; grant of license.

175. Form and contents of license.

176. Assignment or transfer of license; change of location.

177. Bonds and license fees.

178. Action on bond.

179. Registers to be kept.

180. Statements to be filed in theatrical employment agencies.

181. Card to be furnished to applicant for employment.

182. Employment contracts.

183. Theatrical employment contracts.

184. Inspection of registers, books and records.

185. Fees charged by persons conducting employment agencies.

186. Return of fees.

187. Receipt for fees paid.

188. Copies of law to be posted.

189. False or misleading advertisements and information.

190. Prohibition as to employment agencies.

191. Enforcement of provisions of this article.

192. Penalties for violations.

§ 170. Application of article.—1. This article shall apply to all cities of the state, except that the provisions hereof relating to domestic and commercial employment agencies shall not apply to cities of the third class. This article does not apply to employment agencies which procure employment for persons as teachers exclusively, or employment for persons in technical or executive positions in recognized educational institutions; to registries conducted by duly incorporated associations of registered nurses; and employment bureaus conducted by registered medical institutions or duly

* Compare Article 5-a, Bureau of Employment, and § 156 of the Labor Law, pp. 33-36, 101-103, *ante*, regulating immigrant lodging places.

incorporated hospitals. Nor does such article apply to departments or bureaus maintained by persons for the purpose of securing help or employees, where no fee is charged.

§ 171. Definitions.—1. When used in this article the following terms are defined as herein specified. The term "person" means and includes any individual, company, society, association, corporation, manager, contractor, subcontractor or their agents or employees.

2. The term "employment agency" means and includes the business of conducting, as owner, agent, manager, contractor, subcontractor or in any other capacity an intelligence office, domestic and commercial employment agency, theatrical employment agency, general employment bureau, shipping agency, nurses' registry, or any other agency or office for the purpose of procuring or attempting to procure help or employment or engagements for persons seeking employment or engagements, or for the registration of persons seeking such help, employment or engagement, or for giving information as to where and of whom such help, employment or engagement may be procured, where a fee or other valuable consideration is exacted, or attempted to be collected for such services, whether such business is conducted in a building or on the street or elsewhere.

3. The term "theatrical employment agency" means and includes the business of conducting an agency, bureau, office or any other place for the purpose of procuring or offering, promising or attempting to provide engagements for circus, vaudeville, theatrical and other entertainments or exhibitions or performances, or of giving information as to where such engagements may be procured or provided, whether such business is conducted in a building, on the street or elsewhere.

4. The term "theatrical engagement" means and includes any engagement or employment of a person as an actor, performer or entertainer in a circus, vaudeville, theatrical and other entertainment, exhibition or performance.

5. The term "emergency engagement" means and includes an engagement which has to be performed within twenty-four hours from the time when the contract for such engagement is made.

6. The term "fee" means and includes any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting an employment agency of any kind under the provisions of this article. Such term includes any excess of money received by any such person over what has been paid out by him for the transportation, transfer of baggage, or board and lodging for any applicant for employment; such term also includes the difference between the amount of money received by any such person who furnishes employees, performers or entertainers for circus, vaudeville, theatrical and other entertainments, exhibitions or performances, and the amount paid by him to the said employees, performers or entertainers whom he hires or provides for such entertainments, exhibitions or performances.

7. The term "privilege" means and includes the furnishing of food, supplies, tools or shelter to contract laborers, commonly known as commissary privileges.

§ 172. License required.—A person shall not open, keep, maintain or carry on any employment agency, as defined in the preceding section, unless he

shall have first procured a license therefor as provided in this article from the mayor or the commissioner of licenses of the city in which such person intends to conduct such agency. Such license shall be posted in a conspicuous place in said agency. Any person who shall open or conduct such an employment agency without first procuring said license shall be guilty of a misdemeanor and shall be punishable by a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

See requirement of registration with state commissioner of labor under § 155 of the Labor Law, p. 100, *ante*.

§ 173. Application for license.—An application for such license shall be made to the mayor or commissioner of licenses, in case such office shall have been established as herein provided. Such application shall be written and in the form prescribed by the mayor or commissioner of licenses, and shall state the name and address of the applicant; the street and number of the building or place where the business is to be conducted; whether the applicant proposes to conduct a lodging house for the unemployed separate from the agency which he proposes to conduct; the business or occupation engaged in by the applicant for at least two years immediately preceding the date of the application. Such application shall be accompanied by the affidavits of at least two reputable residents of the city to the effect that the applicant is a person of good moral character.

§ 174. Procedure upon application; grant of license.—Upon the receipt of an application for a license the mayor or commissioner of licenses shall cause the name and address of the applicant, and the street and number of the place where the agency is to be conducted, to be posted in a conspicuous place in his public office. The said mayor or commissioner of licenses shall investigate or cause to be investigated the character and responsibility of the applicant and shall examine or cause to be examined the premises designated in such application as the place in which it is proposed to conduct such agency. Any person may file, within one week after such application is so posted in the said office, a written protest against the issuance of such license. Such protest shall be in writing and signed by the person filing the same or his authorized agent or attorney, and shall state reasons why the said license should not be granted. Upon the filing of such protest the mayor or commissioner of licenses shall appoint a time and place for the hearing of such application, and shall give at least five days' notice of such time and place to the applicant and person filing such protest. The said mayor or commissioner of licenses may administer oaths, subpoena witnesses and take testimony in respect to the matters contained in such application and protest or complaints of any character for violations of this article, and may receive evidence in the form of affidavits pertaining to such matters. If it shall appear upon such hearing or from the inspection or examination made by the said mayor or commissioner of licenses that the said protest is sustained or that the applicant is not a person of good character, or that the place where such agency is to be conducted is not a suitable place therefor, or that the applicant has not complied with the provisions of this article, the said application shall be denied and a license

shall not be granted. Each application should be granted or refused within thirty days from the date of its filing. The license shall run to the first Tuesday of May next following the date thereof and no later, unless sooner revoked by the mayor or the commissioner of licenses. No license shall be granted to a person to conduct the business of an employment agency in rooms used for living purposes or where boarders or lodgers are kept or where meals are served or where persons sleep or in connection with a building or premises where intoxicating liquors are sold to be consumed on the premises, excepting cafes and restaurants in office buildings.

§ 175. Form and contents of license.—Every license shall contain the name of the person licensed, a designation of the city, street and number of the house in which the person licensed is authorized to carry on the said employment agency, and the number and date of such license. Such license shall not be valid to protect any other than the person to whom it is issued or any place other than that designated in the license and shall not be transferred or assigned to any other person unless consent is obtained from the mayor or commissioner of licenses, as hereinafter provided. If such licensed person shall conduct a lodging house for the unemployed separate and apart from such agency, it shall be so designated in the license.

§ 176. Assignment or transfer of license; change of location.—A license granted as provided in this article shall not be assigned or transferred without the consent of the mayor or commissioner of licenses. Applications for such consent shall be made in the same manner as an application for a license, and all the provisions of sections one hundred and seventy-three and one hundred and seventy-four relating to the granting of applications for licenses, including the procedure upon such application and the posting of the names and addresses of applicants shall apply to applications for such consent. No license fee shall be required upon such assignment or transfer. The location of an employment agency shall not be changed without the consent of the mayor or commissioner of licenses, and such change of location shall be indorsed upon the license.

§ 177. Bonds and license fees.—1. Every person licensed under the provisions of this act to carry on the business of an employment agency shall pay to the mayor or the commissioner of licenses a license fee of twenty-five dollars before such license is issued. He shall also deposit before such license is issued, with the commissioner of licenses, in every city where there is a commissioner of licenses, or clerk of the city, a bond in the penal sum of one thousand dollars with two or more sureties or a duly authorized surety company, to be approved by the mayor or the commissioner of licenses.

2. The bond executed as provided in the preceding subdivision of this section shall be payable to the people of the city in which any such license is issued and shall be conditioned that the person applying for the license will comply with this article, and shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit, or any unlawful act or omission of any licensed person, his agents or employees, while acting within the scope of their employment, made, committed or omitted in the business conducted under such license, or caused by any other violation of this article in carrying on the business for which such license is granted.

3. If at any time, in the opinion of the mayor, or the commissioner of licenses, the sureties or any of them shall become irresponsible the person holding such license shall, upon notice from the mayor or the commissioner of licenses, give a new bond, subject to the provisions of this section. The failure to give a new bond within ten days after such notice, in the discretion of the mayor or commissioner of licenses, shall operate as a revocation of such license and the license shall be thereupon returned to the mayor or the commissioner of licenses who shall destroy the same.

§ 178. Action on bond; suits brought.—All claims or suits brought in any court against any licensed person may be brought in the name of the person damaged upon the bond deposited with city by such licensed person as provided in section one hundred and seventy-seven and may be transferred and assigned as other claims for damages in civil suits. The amount of damages claimed by plaintiff, and not the penalty named in the bond, shall determine the jurisdiction of the court in which the action is brought. Where such licensed person has departed from the state with intent to defraud his creditors or to avoid the service of a summons in an action brought under this section, service shall be made upon the surety as prescribed in the code of civil procedure. A copy of such summons shall be mailed to the last known post-office address of the residence of the licensed person and the place where he conducted such employment agency, as shown by the records of the mayor or commissioner of licenses. Such service thereof shall be deemed to be made when not less than the number of days shall have intervened between the dates of service and the return of the same as provided by the civil procedure for the particular court in which suit has been brought.

§ 179. Registers to be kept.—It shall be the duty of every licensed person to keep a register, approved by the mayor or the commissioner of licenses, in which shall be entered, in the English language, the date of the application for employment; the name and address of the applicant to whom employment is promised or offered, or to whom information or assistance is given in respect to such employment; the amount of the fee received, and whenever possible, the names and addresses of former employers or persons to whom such applicant is known. Such licensed person shall also enter in the same or in a separate register, approved by the mayor or commissioner of licenses, in the English language, the name and address of every applicant accepted for help, the date of such application, kind of help requested, the names of the persons sent, with the designation of the one employed, the amount of the fee received and the rate of wages agreed upon. No such licensed person, his agent or employees, shall make any false entry in such registers. It shall be the duty of every licensed person, whenever possible, to communicate orally or in writing with at least one of the persons mentioned as references for every applicant for work in private families, or employed in a fiduciary capacity, and the result of such investigation shall be kept on file in such agency; provided, that if the applicant for help voluntarily waives in writing such investigation of references by the licensed person, failure on the part of the licensed person to make such investigation shall not be deemed a violation of this section.

See also requirements as to registration in §§ 66-p and 155 of the Labor Law, pp. 35, 100, *ante*.

§ 180. **Statements to be filed in theatrical employment agencies.**— Every licensed person conducting a theatrical employment agency, before making a theatrical engagement, except an emergency engagement, for any person with any applicant for services in any such engagement shall prepare and file in such agency a written statement signed and verified by such licensed person setting forth how long the applicant has been engaged in the theatrical business. Such statement shall set forth whether or not such applicant has failed to pay salaries or left stranded any companies, in which such applicant and, if a corporation any of its officers or directors, have been financially interested during the five years preceding the date of application and, further, shall set forth the names of at least two persons as references. If such applicant is a corporation, such statement shall set forth the names of the officers and directors thereof and the length of time such corporation or any of its officers has been engaged in the theatrical business and the amount of its paid-up capital stock. If any allegation in such written, verified statement is made upon information and belief, the person verifying the statement shall set forth the sources of his information and the grounds of his belief. Such statement so on file shall be kept for the benefit of any person whose services are sought by any such applicant as employer.

§ 181. **Card to be furnished to applicant for employment.**— Every such licensed person shall give to each applicant for domestic or commercial employment a card or printed paper containing the name of the applicant, the name and address of such employment agency and the written name and address of the person to whom the applicant is sent for employment; kind of services to be performed; rate of wages or compensation; the time of such services, if definite, and if indefinite, to be so stated; and the name and address of person authorized the hiring of such applicant, and the cost of transportation if the services are required outside of the city where such agency is located.

§ 182. **Employment contract.**— A licensed person shall not induce or attempt to induce any employee to leave his employment with a view to obtaining other employment through such agency. Whenever such licensed person or any other acting for him, agrees to send one or more persons to work as contract laborers in any one place outside the city in which such agency is located, the said licensed person shall file with the mayor or commissioner of licenses, within five days after the contract is made, a statement containing the following items: Name and address of the employer; name and address of the employee; nature of the work to be performed, hours of labor; wages offered, destination of the persons employed, and terms of transportation. A duplicate copy of this statement shall be given to the applicant for employment, in a language which he is able to understand, before he leaves the city.

§ 183. **Theatrical employment; contracts.**— Every licensed person who shall procure for or offer to an applicant a theatrical engagement shall have executed in duplicate a contract containing the name and address of the applicant; the name and address of the employer of the applicant and of the person acting for such employer in employing such

applicant; the time and duration of such engagement; the amount to be paid to such applicant; the character of entertainment to be given or services to be rendered; the number of performances per day or per week that are to be given by said applicant; if a vaudeville engagement, the name of the person by whom the transportation is to be paid, and if by the applicant, either the cost of the transportation between the places where said entertainment or services are to be given or rendered, or the average cost of transportation between the places where such services are to be given or rendered; and if a dramatic engagement the cost of transportation to the place where the services begin if paid by the applicant; and the gross commission or fees to be paid by said applicant and to whom. Such contracts shall contain no other conditions and provisions except such as are equitable between the parties thereto and do not constitute an unreasonable restriction of business. The form of such contract shall be first approved by the mayor or commissioner of licenses and his determination shall be reviewable by certiorari. One of such duplicate contracts shall be delivered to the person engaging the applicant and the other shall be retained by the applicant. The licensed person procuring such engagement for such applicant shall keep on file or enter in a book provided for that purpose a copy of such contract.

§ 184. **Inspection of registers, books and records.**—All registers, books, records and other papers required to be kept pursuant to this article in any employment agency shall be open at all reasonable hours to the inspection of the mayor or commissioner of licenses, and to any duly authorized agent or inspector of such mayor or commissioner.

See also power of state commissioner of labor to inspect in §§ 153 and 155 of Labor Law, pp. 98-100, *ante*.

§ 185. **Fees charged by persons conducting employment agencies.**—1. The gross fees of licensed persons charged to applicants for employment as lumbermen, agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrub-women, laundresses, maids, nurses (except professionals), and all domestics and servants, unskilled workers and general laborers, shall not in any case exceed ten per centum of the first month's wages, and for all other applicants for employment, shall not exceed the amount of the first week's wages or salary unless the period of employment is for at least one year, and at a yearly salary, and in that event the gross fee charged shall not exceed five per centum of the first year's salary, except when the employment or engagement is of a temporary nature, not to exceed in any single contract one month, then the fee shall not exceed ten per centum of the salary paid.

2. The gross fees of licensed persons charged to applicants for theatrical engagements by one or more such licensed persons, individually or collectively procuring such engagements, except vaudeville or circus engagements, shall not in any case exceed the gross amount of five per centum of the wages or salary of the engagement when the engagement is less than ten weeks; and an amount of five per centum of the salary or wages per week for ten weeks of a season's engagement constituting ten weeks or more. The gross fees charged by such licensed persons to applicants for vaudeville or circus engagements by one or more such licensed persons, in-

dividually or collectively, procuring such engagement, shall not in any case exceed five per centum of the salary or wages paid. The gross fees for a theatrical engagement, except an emergency engagement, shall be due and payable at the end of each week of the engagement, and shall be based on the amount of compensation actually received for such engagement, except when such engagement is unfulfilled through any act within the control of the applicant for such engagement.

3. A licensed person conducting any employment agency under this article shall not receive or accept any valuable thing or gift as a fee or in lieu thereof. No such licensed person shall divide or share, either directly or indirectly, the fees herein allowed, with contractors, subcontractors, employers or their agents, foremen or any one in their employ, or if the contractors, subcontractors or employers be a corporation, any of the officers, directors or employees of the same to whom applicants for employment or theatrical engagements are sent.

4. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction of any licensed person for any violation thereof shall be subject to a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or imprisonment for not more than one year, or both, at the discretion of the court, and the mayor or commissioner of licenses shall forthwith cancel and revoke the license of such person.

§ 186. Return of fees.—1. In case a person applying for help or employment of a domestic or commercial employment agency shall not accept help or obtain employment through such agency, then the licensed person conducting such agency shall on demand repay the full amount of the said fee, allowing three days' time to determine the fact of the applicant's failure to obtain help or employment. If an employee furnished fails to remain one week in the situation, a new employee shall be furnished to the applicant for help if he so elects, or three-fifths of the fee returned, within four days of demand; provided said applicant for help notifies said licensed person within thirty days of the failure of the applicant to accept the position or of the applicant's discharge for cause. If the employee is discharged within one week without said employee's fault another position shall be furnished, or three-fifths of the fee returned to the applicant for employment if he so elects. Failure of said applicant for help to notify said licensed person that such has been obtained through means other than said agency shall entitle said licensed person to retain or collect three-fifths of the said fee.

2. No such licensed person shall send out any applicant for employment without having obtained, either orally or in writing, a bona fide order therefor, and if it shall appear that no employment of the kind applied for existed at the place to which said applicant was directed, the said licensed person shall refund to such applicant within three days of demand any sums paid by said applicant for transportation in going to and returning from said place, and all fees paid by said applicant.

§ 187. Receipt for fees paid.—It shall be the duty of every such licensed person conducting an employment agency to give to every applicant for em-

ployment from whom a fee shall be received a receipt in which shall be stated, the name of said applicant, the date and amount of the fee, and the purpose for which it was paid, and to every applicant for help a receipt stating the name and address of said applicant, the date and amount of the fee, and the kind of help to be provided. Every such receipt, excepting those given by theatrical employment agencies, shall have printed on the back thereof a copy of sections one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven, in the English language and in any language which the person to whom the receipt is issued can understand.

§ 188. Copies of law to be posted.—Every licensed person shall post in a conspicuous place in each room of such agency sections one hundred and seventy-eight, one hundred and eighty, one hundred and eighty-one, one hundred and eighty-two, one hundred and eighty-three, one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven and one hundred and eighty-nine, of this article, which shall be printed in large type in languages in which persons commonly doing business with such office can understand. Such printed law shall also contain the name and address of the officer charged with the enforcement of this article in such city.

§ 189. False or misleading advertisements and information.—No licensed person conducting any employment agency shall publish or cause to be published any false or fraudulent or misleading information, representation, notice or advertisement; all advertisements of such employment agency by means of cards, circulars, or signs and in newspapers and other publications, and all letter heads, receipts and blanks shall be printed and contain the licensed name and address of such employment agent and the word agency, and no licensed person shall give any false information, or make any false promise or false representation concerning an engagement or employment to any applicant who shall register or apply for an engagement or employment or help.

§ 190. Prohibitions as to employment agencies.—No licensed person conducting an employment agency shall send or cause to be sent any female as a servant, employee, inmate, entertainer or performer, or any male as an employee or entertainer to any place of bad repute, house of ill-fame, or assignation house, or to any house or place of amusement kept for immoral purposes, or place resorted to for the purposes of prostitution, or gambling house, the character of which such licensed person could have ascertained upon reasonable inquiry. No licensed person shall send out any female applicant for employment, without making a reasonable effort to investigate the character of the employer. Nor shall any such licensed person send any female as an entertainer or performer to any place where such female will be required or permitted to sell, offer for sale or solicit the sale of intoxicating liquors to those present or assembled as an audience or otherwise in such place or in any rooms or buildings adjacent thereto. No licensed person shall knowingly permit any persons of bad character, prostitutes, gamblers, intoxicated persons or procurers to frequent such agency. No licensed person shall accept any application for employment made by or on behalf of any child or shall place or assist in placing any such child in any employ-

ment whatever in violation of article twenty of the education law, relating to compulsory education, and in violation of the labor law. No licensed person, his agents, servants or employees shall induce or compel any person to enter such agency for any purpose, by the use of force or by taking forcible possession of said person's property. No person shall procure or offer to procure help or employment in rooms or on premises where intoxicating liquors are sold to be consumed on the premises whether or not dues or a fee or privilege are exacted, charged or received directly or indirectly, except in office buildings in which are located cafes and restaurants. For the violation of any of the foregoing provisions of this section the penalties shall be a fine of not less than twenty-five dollars, and not more than two hundred and fifty dollars, or imprisonment for a period of not more than one year, or both, at the discretion of the court.

§ 191. Enforcement of provisions of this article.— 1. In cities of the second and third class and in cities of the first class having a population of less than three hundred thousand, this article, so far as it relates to such cities, shall be enforced by the mayor or an officer appointed by him.

2. In cities of the first class having a population of three hundred thousand or more the enforcement of this article so far as it relates to such cities shall be intrusted to a commissioner to be known as a commissioner of licenses, who shall be appointed by the mayor, and whose salary, together with those of a deputy commissioner, and inspectors to be appointed by him, shall be fixed by the board of estimate and apportionment. Said commissioner of licenses and deputy commissioner shall have no other occupation or business. The commissioner of licenses shall appoint inspectors, who shall make at least bi-monthly visits to every such agency. Said inspectors shall have suitable badges which they shall exhibit on demand of any person with whom they may have official business. Such inspectors shall see that all the provisions of this article, so far as it relates to such cities, are complied with, and shall have no other occupation or business.

3. Complaints against any such licensed person shall be made orally or in writing to the mayor or commissioner of licenses, or be sent in an affidavit form without appearing in person, and reasonable notice thereof, not less than one day, shall be given in writing to said licensed person by serving upon the licensed person either personally or by leaving the same with the person in charge of his office, a concise statement of the facts constituting the complaint, and a hearing pursuant to the powers granted to the mayor or commissioner of licenses as provided in section one hundred and seventy-four shall be had before the mayor or commissioner of licenses within one week from the date of the filing of the complaint and no adjournment shall be taken for a period longer than one week. A daily calendar of all hearings shall be kept by the mayor or commissioner of licenses and shall be posted in a conspicuous place in his public office for at least one day before the date of such hearings. The mayor or commissioner of licenses shall render his decision within eight days from the time the matter is finally submitted to him. Said mayor or commissioner of licenses shall keep a record of all such complaints and hearings. The said mayor or commissioner of licenses may refuse to issue and shall revoke any license for any good cause shown, within the meaning and purpose of this article and when it is shown to the

satisfaction of the mayor or commissioner of licenses that any licensed person is guilty of any immoral, fraudulent or illegal conduct in connection with the conduct of said business, it shall be the duty of the mayor or the commissioner of licenses to revoke the license of such person; but notice of the charges shall be presented and reasonable opportunity shall be given said licensed person to defend himself. Whenever said mayor or commissioner of licenses shall refuse to issue or shall revoke the license of an employment agency, said determination may be reviewed by certiorari. Whenever for any cause such license is revoked, said mayor or commissioner of licenses shall not within three years from the date of such revocation issue another license to said licensed person or his representative or to any person with whom he is to be associated in the business of furnishing employment, help or engagements. In the absence of the commissioner of licenses, the deputy commissioner of licenses may conduct hearings and act upon applications for licenses, and revoke such licenses. [*Subd. 3, as am'd by L. 1912, ch. 261.*]

§ 192. Penalties for violations.—The violation of any provision of this article except as otherwise provided in this article shall be punishable by a fine not to exceed twenty-five dollars, and any city magistrate, police justice, justice of the peace, or any inferior magistrate having original jurisdiction in criminal cases, shall have power to impose said fine, and in default of payment thereof to commit the person so offending for a period not exceeding thirty days. The said mayor or commissioner of licenses or any person, his agent or attorney, aggrieved because of the violations of this article shall institute criminal proceedings for its enforcement before any court of competent jurisdiction.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 950. False statements in regard to employment.—Any person, firm, association or corporation, or any employee or agent thereof, who makes to any person furnishing or seeking employment any statement which is false, knowing the same to be false, in regard to any employment, work or situation, its nature, location, duration, wages, or salary attached thereto, or the circumstances surrounding the said employment, work, or situation, or who shall offer or hold himself out as in a position to secure or furnish employment without having an order therefor or such employment to be filled or shall misrepresent any other material matter in connection with said employment, work, or situation, and by reason of such statement, offer, holding out or misrepresentation, any person shall seek the employment, work or situation, in respect to which such statement, offer, holding out or misrepresentation was made, shall be guilty of a misdemeanor. [*Added by L. 1911, ch. 575.*]

LICENSING OF SAILORS' BOARDING HOUSES *

LAWS OF 1882, CHAPTER 410 (THE NEW YORK CITY CONSOLIDATION ACT)

§ 2069. It shall not be lawful for any person, except a pilot or public officer, to board, or attempt to board, a vessel arriving in the port or harbor of New York before such vessel shall have been made fast to the wharf, without first obtaining leave from the master or person having charge of such vessel, or leave in writing from her owners or agents.

* Cf. § 156 of the Labor Law, p. 101, *ante*; relative to licensing of immigrant lodging places.

§ 2070. It shall not be lawful for any person to board or attempt to board any vessel arriving in or lying or being in the harbor or port of New York, with intent to supply liquors by sale, gift or otherwise, directly or indirectly, to any member of the crew employed on board of such vessel. [*As am'd by L. 1909, ch. 353.*]

§ 2071. It shall not be lawful for any person having boarded any vessel in the port of New York, to neglect or refuse to leave said vessel after having been ordered so to do by the master or person having charge of such vessel. [*As am'd by L. 1909, ch. 353.*]

§ 2072. It shall not be lawful for any person to keep, conduct, or carry on, either as owner, proprietor, agent, or otherwise, any sailors' boarding-house or sailors' hotel in the city of New York, without having the license in this chapter provided.

§ 2073. It shall not be lawful for any person not having the license in this chapter provided, or not being the regular agent, runner, or employee of a person having such a license, to invite, ask, or solicit, in the city or harbor of New York, the boarding or lodging of any of the crew employed on any vessel.

§ 2074. There is created a board denominated a board of commissioners for licensing sailors' hotels or boarding-houses in the city of New York consisting of one person selected by each of the following corporate bodies or associations, respectively, to-wit: The Chamber of Commerce of the State of New York; the American Seamen's Friend Society in New York; the New York Board of Underwriters; the Marine Society of New York; the Society for Promoting the Gospel Among Seamen in the Port of New York; the New York Maritime Association of the Port of New York; the Seamen's Church Institute of New York; the Seamen's Christian Association of the City of New York, and St. Peter's Union for Catholic Seamen. [*As am'd by L. 1909, ch. 353.*]

§ 2075. Such board shall take the application of any person applying for a license to keep a sailors' boarding-house, or sailors' hotel, in the city of New York, and upon satisfactory evidence to them of the respectability and competency of such applicant, and of the suitableness of his accommodations, shall issue to him a license, which shall run to the first Tuesday of May next ensuing the date thereof and no longer, unless sooner revoked by said board, to keep a sailors' boarding-house in the city and to invite and solicit boarders for the same within the limitations of the state and federal laws relating thereto. [*As am'd by L. 1909, ch. 353.*]

§ 2076. Such board may, upon satisfactory evidence of the disorderly character of any sailors' hotel or boarding-house, licensed as hereinbefore provided, or of the keeper or proprietor of any such house, or of any force, fraud, deceit, or misrepresentation in inviting or soliciting boarders or lodgers for such house, on the part of such keeper or proprietor, or of any of his agents, runners, or employees, or of any attempt to persuade or entice or force any of the crew to desert from or to serve involuntarily on any vessel in the harbor of New York, by such keeper or proprietor, or any of his agents, runners, or employees, revoke the license for keeping such house after notice to the licensee and a hearing thereon and each member of said board is hereby authorized to administer oaths and take and receive evidence in all matters provided for herein. [*As am'd by L. 1909, ch. 353.*]

§ 2077. Every person receiving the license hereinbefore provided for shall pay to the board of commissioners aforesaid the sum of twenty-five dollars for each full year and a proportionate amount for a shorter period which amounts after deducting the actual expenses of said board incurred in the transaction of the business shall be by them applied for the relief of shipwrecked and destitute seamen. Said board shall file on or before the second Monday of January of each year, in the office of the clerk of the city and county of New York, a statement showing the number of licenses issued, the names of persons to whom issued, with name and number of the street or house licensed during the year preceding, the amount of money received therefor, the amount and items of their disbursements, and the amount distributed by them as hereinbefore directed. [*As am'd by L. 1909, ch. 353.*]

§ 2078. The said board shall appoint a president and secretary and shall keep an office in the city of New York, and make such by-laws and regulations as may be needful for the orderly conduct of its business, not inconsistent with the constitution and laws of this state.

§ 2079. The said board shall furnish to each sailors' hotel or boarding-house keeper, licensed by them as aforesaid, one or more badges or shields, on which shall be printed or engraved the name of such hotel or boarding-house keeper, and the number and street of his hotel or boarding-house; and which said badges or shields shall be surrendered to said board upon the revocation by them or expiration of any license granted by them as herein provided.

§ 2080. Every sailors' hotel or boarding-house keeper, and every agent, runner, or employee of such hotel or boarding-house keepers, when boarding any vessel, in the harbor of New York, or when inviting or soliciting the boarding or lodging of any seaman, sailor, or person employed on any vessel, shall wear conspicuously displayed the shield or badge referred to in the foregoing section.

§ 2081. It shall not be lawful for any person, except those named in the preceding section, to have, wear, exhibit, or display any such shield or badge to any of the crew employed on any vessel with the intent to invite, ask, or solicit the boarding or lodging of any of the crew employed on any vessel being in the harbor of New York.

§ 2082. Whoever shall offend against any or either of the provisions contained in sections two thousand and sixty-nine to two thousand and seventy-three, inclusive, or two thousand and eighty or two thousand and eighty-one, of this act, and any commissioner appointed under this chapter who shall directly or indirectly receive any gratuity or reward, other than as herein provided for, or on account of any license under this chapter shall be deemed guilty of a misdemeanor. [*As am'd by L. 1909, ch. 353.*]

§ 2083. The word "vessel," as used in this chapter shall include vessels by whatever power propelled. The word "sailor" and the word "seamen" as used in this chapter shall include any person not an officer employed on any vessel. The word "boarding-house" as used in this chapter shall include a house where both board and lodgings are given or a house where lodgings alone are given. The word "hotel" as used in this chapter shall include a house where lodgings alone are given or a house where both board and lodgings are given. [*As am'd by L. 1909, ch. 353.*]

§ 2084. The president of the trustees of the Seamen's fund and retreat in the city of New York shall demand and be entitled to receive, and in case of neglect or refusal to pay, shall, in the name of the people of the state of

New York, sue for and recover the following sums from either the owner or owners, or from the master, or from both the owner or owners and master, of every vessel from a foreign port; for the master, one dollar and fifty cents; for each mate, sailor, or mariner, one dollar. Second, from the master of each coasting vessel, from each person on board composing the crew of such vessel, twenty-five cents; but no coasting vessel from the state of New Jersey, Connecticut, or Rhode Island shall pay for more than one voyage in each month, computing from the first voyage in each year. And the said president may sue for the penalties imposed by law on masters of coasting vessels for nonpayment of hospital money.

Part VIII

**OPINIONS OF THE ATTORNEY-GENERAL CON-
STRUING PROVISIONS OF LABOR LAWS**

COMPILED BY THE BUREAU OF STATISTICS AND INFORMATION

[*303]

NOTE.—In the following pages are printed all of the opinions rendered by the Attorney-General in construing labor laws during the year 1914. Similar opinions of earlier years may be found in previous reports of the Commissioner of Labor. The opinions are here arranged under general subject headings. Section numbers in these headings refer to the general Labor Law. Opinions dealing with that law are placed first, arranged according to section numbers, followed by opinions referring to other laws.

OPINIONS OF ATTORNEY-GENERAL

PREVAILING RATE OF WAGES (§ 3)

Applies to Work Prosecuted by a Municipal Department of Public Works

October 16, 1914.

Hon. V. T. HOLLAND, *Secretary, Department of Labor, Albany, N. Y.*

DEAR SIR.—I acknowledge the receipt of your letter of October 8th, in which you inquire whether "the prevailing rate of wages" provision of section 3 of the Labor Law applies to work carried on by the Department of Public Works of a city.

Under the opinions of the courts contained in *Ryan v. City of New York*, 177 N. Y. 271; *McAvoy v. City of New York*, 52 App. Div. 485, and *McNulty v. City of New York*, 60 App. Div. 250, and the decisions of this Department, notably in the 1907 report, page 580, it is clear that the provision by its very terms does apply to a Department of Public Works, even when the work is carried on by that Department itself.

Very truly yours,

JAMES A. PARSONS,
Attorney-General.

By EDWARD G. GRIFFIN,
Deputy Attorney-General.

EXTRAORDINARY EMERGENCY (§ 3)

(a) Certification of by What Official

December 22, 1914.

Hon. JOHN N. CARLISLE, *State Commissioner of Highways, Albany, N. Y.*

DEAR SIR.—As requested, I have again given consideration to your letter of December 4th, relative to extraordinary emergency on highway work in Schoharie county.

The Labor Law lays down no particular rule for certifying as to the existence of these extraordinary emergencies. However, after consultation with Deputy Harris of the Comptroller's office and Secretary Holland of the Commissioner of Labor's office, I have come to the conclusion that the Comptroller is justified in demanding that the official having the best knowledge of the facts should certify where an extraordinary emergency exists. This is in accordance with the opinion rendered September 9, 1913, and printed at page 576 of the Attorney-General's Report for that year.

Of course the Commissioner of Labor is given authority to enforce the provisions of the eight-hour law under sections 3 and 21 of the Labor Law. However, this is more for the purpose of detecting violations.

Where you believe that the exception as to extraordinary emergencies should operate upon work carried on by you, then I am of the opinion that you should certify as to this necessity in order that the Comptroller and

the Commissioner of Labor may be guided and instructed by your determinations.

Very truly yours,

JAMES A. PARSONS,
Attorney-General.

By EDWARD G. GRIFFIN,
Deputy Attorney-General.

(b) Regular Employment in a State Hospital for Eleven and One-half Hours Per Day Does Not Constitute an Extraordinary Emergency Entitling an Electrical Engineer to Overtime Pay

Where an assistant electrical engineer was required, under the rules of the state hospital by which he was employed, to work regularly eleven and a half hours a day for 146 days and remain at his post until he was relieved, there is not constituted thereby an extraordinary emergency entitling him to pay for time over eight hours.

Whether the maintenance, and other extras paid to him in connection with his regular wages, make up the prevailing rate of wages for work of the kind, is a question for the administrative officers to determine.

STATEMENT

Counsel for Mr. James Tubridy of Brooklyn makes the following statement of facts relative to his client, who was employed as first assistant electrical engineer in the Manhattan State Hospital on Ward's Island:

The detailed facts in his case are as follows: He was employed from the 14th day of May, 1913, up to the first day of November, 1913, a period of 146 working days, during which time he was paid in accordance with the schedule prescribed in the Insanity Law, \$82 in cash, and allowed for maintenance \$16 per month, making a daily rate of \$3.20 per day. During all of this time the prevailing rate of wages in the community, being the city of New York, was \$4.50 per day. The difference between what he was receiving and the prevailing rate for the number of working days amounts to \$118. During all of this time he was compelled to work overtime three and one-half hours per day for six days per week, less fourteen days vacation, making a total of 511 hours overtime for which he claims payment at a prevailing rate in the sum of \$287.41.

My client was employed maintaining and providing electrical current for the hospital and was compelled, under the rules of the hospital, to work eleven and one-half hours per day until relieved, the very nature of the employment making it necessary for him to remain on post until relieved.

My client was compelled until the time that he left the institution to work eleven and one-half hours a day. This it was necessary for him to do, he is compelled under the laws of the union and, in fact, by common sense, not to leave his plant until relieved by a competent man or until the plant is 'dead.' It may be argued that he should have stopped work at the end of the eight hours, but it is manifest that he could not do this. To have done so would have entailed inestimable loss and very great danger to the inmates of the hospital. Again it may be argued that he should have refused to receive his pay check unless it was for the proper amount, but he could not do that without automatically forfeiting his position. Again it may be argued that the payroll which he signed contained a statement at the foot thereof that signing of the payroll by the employees was a waiver of any claim against the State.

My client has been guilty of no laches. He protested when he became acquainted with the law and was advised that he was entitled to its benefits, and less than eighteen months has elapsed since the law went into effect.

OPINION

So much of the statute as is pertinent provides:

Labor Law, § 3. *Hours to constitute a legal day's work.* Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law. This section does not prevent an agreement for over work at an increased compensation *except upon work by or for the state or a municipal corporation*, or by contractors or subcontractors therewith. Each contract to which the state or a municipal corporation or a commission appointed pursuant to law is a party which may involve the employment of laborers, workmen or mechanics shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day except in cases of extraordinary emergency caused by fire, flood or danger to life or property. The wages to be paid for a legal day's work as heretofore defined to all classes of such laborers, workmen or mechanics upon all such public works, or upon any material to be used upon or in connection therewith, shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used. * * *

Counsel, in a carefully prepared brief submits, that although an agreement for over time is forbidden under section 3 of the Labor Law, the exception as to extraordinary emergencies contained in the sentence relating to State and municipal contractors should be read back into this flat prohibition contained in the sentence relating to contracts of employment made directly by the State and its municipalities.

Although there is some ground for his contention, the facts presented here do not warrant his conclusion that his client should be paid for overtime arising from an emergency.

There was no emergency, extraordinary or otherwise. The State through its agencies of government has evidently failed to adequately man the electric light plant. The very purpose for which the statute is designed forbids a construction by which extra time may be agreed upon, if two men will promise to do the work of three, especially where the employing officers refuse to provide funds, or pay funds available to the third.

There was nothing unexpected by the responsible authorities such as the Legislature, the superintendent and others charged with the duty of ascertaining the true condition. The fact that this condition was not forestalled, merely arose from lack of adequate provision for a simple and well understood situation. The State as employer simply failed to provide men and money to do the work as required under existing law; and this in the face of the fact that there is an elaborate system of budget estimates provided for under our statutes by which full information of the necessity is given.

Even ordinary emergencies are not expected. Anticipation or expectation of a particular event deprives the term "emergency" of its very meaning. The Federal courts have said:

The term "extraordinary emergency," within Code, § 892, limiting to eight hours the daily labor on public works except in case of such emergency, imports a sudden

and unexpected happening; an unforeseen occurrence calling for immediate action to avert imminent danger to health, or life, or property, as unusual peril, suddenly creating a situation so different from the usual course in the prosecution of the public work that the court must conclude that congress contemplated exception from the operation of the law such an occurrence." (*Penn Bridge Co. v. United States*, 29 App. D. C. 452, 459.)

The building of a public levee on the Mississippi river in the eastern district of Louisiana cannot be said to present at all times an 'extraordinary emergency,' within the meaning of Act, Aug. 1, 1892, c. 352, 27 Stat. 340, regulating the hours of labor of laborers and mechanics on public works, and making it unlawful to require or permit such employees to work a longer time except in cases of extraordinary emergency. (*United States v. Garbish*, 32 Sup. Ct. 77, 78, 222 U. S. 257, 56 L. Ed. 190.)

See also 2 Words and Phrases (2d S.), 423, 424, for other authorities to the same effect.

Counsel also cites certain cases. The Olean case was one where there was over work in two months, during a period when an extra pump was being installed by an increased force of men. (52 App. Div. 36.) In the Grady case, the claimant was likely to be called at any time of the day or night to repair a break in the pipes or cut off water from a broken main. (182 N. Y. 18, 22.) That is, both of these were really emergency men, specially employed. The first was employed because a sudden emergency had arisen and during its temporary continuance, it was necessary that the water supply of the town be protected at that time; immediately upon the emergency subsiding, the employee went back to the legal hours of labor. In the second case, the employee was hired in anticipation of emergencies of which the exact nature and time could not be calculated with certainty.

These cases, therefore, have no bearing upon the situation presented, where the same condition existed day after day for one hundred and forty-six days, or during all the time the claimant was employed, and apparently it exists at the present time. Certainly the necessity for extra help was here foreseen, and the difficulty was always within the control of the human agencies charged to care for it in obedience to law.

It does not appear from the statement that the Legislature has failed to provide sufficient funds to meet this claim. In fact, I am informed that there is sufficient money available to pay the claimant, if his contention were found to be a valid one. However, it has long been held that where a charge is fixed by law, and the Legislature appropriates a smaller sum for this, without any provision declaring it to be in full for the charge, or repealing the provision fixing it, this is merely an insufficient appropriation and not a reduction.

French v. U. S., 16 Ct. of Cl. 419; *Fountain v. Jackson*, 50 Mich. 260; *Langston v. U. S.*, 21 Ct. of Cl. 10, *affd.*, 118 U. S. 389; *State v. Steele*, 57 Tex. 200; *State v. Cook*, 57 Tex. 205; *U. S. v. Mitchell*, 109 U. S. 146; see also *Minis v. U. S.*, 15 Peters, 423, 444, and *U. S. v. Jarvis*, 26 Fed. Cas. 587.

The electrical engineer should receive the prevailing rate of wages. The administrative officers of the hospital must ascertain as a matter of fact what the prevailing rate is in the locality where the hospital is situated. (1912 Attorney-General's Report.)

Counsel for Mr. Tubridy makes certain statements in his brief, and argues therefrom that his client was paid at the rate of three dollars and twenty

cents per day. Whether he received compensation of greater value, made up of maintenance and other items, is also a question of fact for the administrative officers to determine.

Dated November 20, 1914.

JAMES A. PARSONS,
Attorney-General.

By EDWARD G. GRIFFIN,
Deputy Attorney-General.

To the STATE HOSPITAL COMMISSION, Albany, N. Y.

VIOLATIONS OF LABOR LAW (§ 3)

Provisions in Labor Law for Prosecutions of Violations are Exclusive of Provisions in the Penal Law

July 16, 1914.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—I acknowledge the receipt of your letter relative to prosecutions for violations of section 3 of the Labor Law. I think the procedure laid down in sections 3, 4 and 21 of the Labor Law is exclusive of the provisions for criminal prosecutions provided for in section 1271 of the Penal Law. I can see no reason why you should not turn all the evidence over to the proper district attorney in accordance with section 21 and ask that he proceed under the Penal Law.

Yours very truly,

THOMAS CARMODY,
Attorney-General.

By EDWARD G. GRIFFIN,
Deputy.

DAY OF REST LAW (§ 8-a)

(a) Discretionary Power of Commissioner of Labor—Definition of Continuous Industry

April 27, 1914.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—I acknowledge the receipt of your letter of April 21st, relative to the application of chapter 396 of the Laws of 1913 (Senator Thompson's Bill, Pr. 1382) amending subdivision 2, section 8-a of the Labor Law. It is my opinion that the general intent of the part "e" is to confer upon the Commissioner of Labor a general discretionary power. That is to say, as long as he exercises his discretion reasonably, he is not in duty bound to grant an exemption. The matter is therefore left entirely with him, within reasonable bounds, and no manufactory or industry could assert an absolute right to an exemption because it could show certain facts as to the nature of its process, etc.

310* REPORT OF THE COMMISSIONER OF LABOR, 1914

I believe that the new subdivision applies to employees as defined in section 2. It is my opinion, however, that the Labor Commissioner's discretion extends far enough to grant exemption to some employees in a factory and to refuse it to others under proper circumstances.

In reply to your second question, I think it is clear that an industrial or manufacturing process necessarily continuous is one which is conducted twenty-four hours every day. It would be difficult to understand the purpose of the Legislature in referring in so general a manner to a process which is carried on every day but only eight hours during a day.

Yours very truly,

THOMAS CARMODY,
Attorney-General.

(b) Two Amendments Not Inconsistent With Each Other and Enacted on the Same Day but by Different Chapters Are Both Valid

May 6, 1914.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—I acknowledge receipt of your communication of the 2d inst., in which you ask for my opinion as to the validity of chapter 388 of the Laws of 1914, and in which you say that said chapter and chapter 396 of the Laws of 1914, both amending section 8-a of the Labor Law, were enacted into laws on the same day, and that the later numbered chapter is such that the amendment proposed by the earlier numbered chapter is ignored.

In reply to your request I beg to call your attention to an opinion of this Department rendered on May 25, 1912, to the Superintendent of Insurance, in which opinion it was held that where two acts amending the same law become laws on the same day they are to be considered as taking effect at the same instant and therefore as a single enactment.

Chapters 388 and 396 of the Laws of 1914 are not inconsistent with each other and following the opinion referred to above should be upheld and considered together as amendments to said section 8-a of the Labor Law.

Very truly yours,

THOMAS CARMODY,
Attorney-General.

By J. A. KELLOGG,
First Deputy.

CASH PAYMENT OF WAGES (§ 10)

Deductions from Wages by Employers for Rent or Other Charges Not Permissible

December 31, 1914.

V. T. HOLLAND, Esq., *Secretary, Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—Receipt is acknowledged of your favor of the 22d inst., relative to the application of section 10 of the Labor Law requiring that cash payment of wages be made. The law is made to apply to certain corporations specifically named, engaged in all kinds of work, and then is made to

apply to all firms and corporations generally and private persons engaged upon a public work for the State or a municipality. It is my opinion that the section prohibits a deduction for rent or other charges. The statute requires such employers to whom it applies to make their payment in cash without deduction.

Yours very truly,

JAMES A. PARSONS,
Attorney-General.

By EDWARD G. GRIFFIN,
Deputy Attorney-General.

EMPLOYMENT CERTIFICATES (§§ 73, 165)

Child Between Fourteen and Sixteen Years of Age May Present Record of School Attendance for Year Preceding Fourteenth Birthday or for Year Preceding His Application

December 9, 1914.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—Receipt is acknowledged of your letter of December 1st, asking for a construction of § 73 and § 165 of the Labor Law.

Both sections require that the school record of a child shall be given "during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application for such school record." Under article 23 of the amended Education Law, compulsory education runs as high as sixteen years of age. The Labor Law forbids absolutely the employment of children under the age of fourteen, except in connection with farm and produce work. At the age of fourteen, however, a child is permitted to work if it has an employment certificate.

Of course where a child goes to work immediately upon attaining the age of fourteen, under the statutes above quoted from, the school record required as a condition precedent to issuing the employment certificate, must give the attendance for the twelve months next preceding the fourteenth birthday. Likewise if a child should continue in school until he is nearly sixteen years of age, and should then go to work, he could give his school record for the twelve months previous to his leaving school.

Now the suggestion is made that where a child does not go to work until he is nearly sixteen, he should not be permitted to fall back upon his attendance record previous to the age of fourteen.

However, the Legislature has not indicated that this was its intention. If a child goes to work between the ages of fourteen and sixteen, it is optional with him to give his record of attendance for the year preceding his fourteenth birthday, or, if it is possible to give it, he may submit his attendance for the year preceding his application.

Yours very truly,

JAMES A. PARSONS,
Attorney-General.

By EDWARD G. GRIFFIN,
Deputy Attorney-General.

FIRE ALARM SIGNAL SYSTEMS AND FIRE DRILLS IN FACTORIES

(§ 83-a)

Where the duty of providing fire alarm systems in factories is placed by statute upon the *owner* or *lessee*, the duty should be assumed by the owner, if in possession or the lessee if the factory is leased.

Certain statutory provisions as to co-operation in fire drills considered.

INQUIRIES

The State Fire Marshal asks the following questions in regard to the administration of § 83-a of the Labor Law entitled "Fire Alarm Signal Stations and Fire Drills: "

1. Is it, so far as this Department is concerned, the duty of a landlord or of a tenant to install the fire alarm system?
2. Is it the duty of the tenant or of the landlord to require fire drills?
3. Is it obligatory upon all tenants, without exception, to take part in the drill? If so, what method can be pursued as against such as refuse?
4. What effect would it have upon this Department if a lease contained a customary clause binding the tenant to comply with all the rules and regulations of municipal and State departments and ordinances?

OPINION

The only question which presents any real difficulty is the first, relative to the duty of the landlord and tenant. The statute provides:

Every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor shall be equipped with a fire alarm signal system with a sufficient number of signals clearly audible to all occupants thereof. * * * Such system shall be installed *by the owner or lessee* of the building and shall permit the sounding of all alarms within the building whenever the alarm is sounded in any portion thereof.

It is my opinion that such system shall be installed by the owner *when in possession of the building* or the lessee of the building *when the building is leased*. I am fortified in this conclusion by the case of *Schott v. Harvey*, 105 Pa. State, 222, 51 American Reports, 201. There the court was construing a statute which made it the duty "of the *owners, superintendents or managers* of such * * * factories * * * to provide and cause to be affixed to every such building such permanent fire-escape." The court reasoned as follows:

It will be noticed that the act is in the disjunctive. The duty is imposed upon the owners, superintendents or managers of factories; the owners or keepers of hotels; owners or landlords of tenement houses, or their agents, etc. Which of these classes did the legislature intend to make responsible for a neglect to comply with the law? If the object was to impose a joint liability upon all, the act would not have been framed in the disjunctive. A more reasonable construction would seem to be that it was intended to reach the person in possession with a power of control, whether he be owner, superintendent or manager. However hard such a rule might be in the case of a superintendent or manager, he could avoid the responsibility by declining to act as such in a factory where his principal refused to provide it with an "efficient fire-escape."

Much more is said in the case which supports this conclusion.

As to the second question, the statute is clear. It is evident that it was intended that the person having control over the employees assume direct control in the first instance of the fire drill. The third paragraph of the law places the duty upon the State Fire Marshal to "supervise and regulate such fire drills and (he) shall make rules, regulations and special orders necessary or suitable for each situation, and in the case of buildings containing more than one tenant, necessary or suitable to the adequate co-operation of all the tenants of such building in a fire drill of all the occupants thereof. Such rules and regulations and orders may prescribe upon whom shall rest the duty of carrying out the same." This sufficiently indicates the proper disposal of the third inquiry.

As to prosecution for failure to obey the rules and regulations proceeding should be had under section 1275 of the Penal Law which refers to violations of provisions of the Labor Law and rules of the Industrial Board.

The fourth inquiry becomes immaterial in view of the disposal of the first question.

Dated February 16, 1914.

THOMAS CARMODY,
Attorney-General.

To Hon. THOMAS J. AHEARN, *State Fire Marshal, Albany, N. Y.*

BAKERIES (§§ 110-117)

(a) Violation of Law as to Bakeries Punishable as a Crime

April 11, 1914.

WILLIAM H. HEATH, M. D., *Chief, Bureau Food and Drugs, Department of Health, Buffalo, N. Y.:*

DEAR SIR.—I have conferred with the Commissioner of Labor relative to the question you raise as to the enforcement of the provisions of article 8 of the Labor Law which relates to bakeries and confectioneries.

I beg to advise you that, under section 1275 of the Penal Law, as amended by chapter 349 of the Laws of 1913, violations of this article are punishable as crimes.

If you will read section 1275, which is printed at page 98 of the 1913 Bulletin of the Department of Labor, entitled "Laws Relating to Labor, Factories and Mercantile Establishments," I think you will understand how and when the penalties will be imposed.

Very truly yours,

THOMAS CARMODY,
Attorney-General.

By J. A. KELLOGG,
First Deputy.

(b) A Cellar Not Used as a Bakery Prior to May 9, 1913, May Not Be So Used Thereafter

February 6, 1914.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—I acknowledge the receipt of your letter of February 2d relative to the application of section 116 of the Labor Law to a cellar bakery operated from 1896 to 1911, and which it is proposed to open again although it has been used as a milk station for the past two years.

This act took effect May 9, 1913, and was amended July 24, 1913. It excepts from its operation a cellar used and operated as a bakery at any time within one year prior to the date of the passage of this act. The original statute and its amendment became laws on the same dates respectively. It is clear therefore that the cellar was not used and operated as a bakery at any time within one year prior to the date of the passage of the act. It may therefore not be reopened and used as a bakery.

Yours very truly,

THOMAS CARMODY,
Attorney-General.

By J. A. KELLOGG,
First Deputy.

HOURS OF WOMEN AND MINORS IN MERCANTILE ESTABLISHMENTS

(§ 161)

(a) Time for Supper Must Be Given to All Employees Who Work After Seven P. M. Irrespective of Age or Sex

The provisions of section 161 of the Labor Law, requiring employers to permit employees in any mercantile establishment, business office, or telegraph office, restaurant, hotel, apartment-house, theater or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, or in the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles, that are employed or permitted to work after seven o'clock in the evening, twenty minutes to obtain supper or lunch between five and seven o'clock in the evening, applies to all employees irrespective of age or sex.

INQUIRY

A portion of section 161 of the Labor Law reads as follows:

Whenever any employee is employed or permitted to work after seven o'clock in the evening, such employee shall be allowed at least twenty minutes to obtain lunch or supper between five and seven o'clock in the evening.

Does this apply to all employees regardless of age or sex?

OPINION

Section 161 of the Labor Law reads as follows:

Hours of labor of minors.—No child under the age of sixteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, business office, or telegraph office, restaurant, hotel, apartment-house,

theatre or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, or in the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles more than six days or fifty-four hours in any one week, or more than nine hours in any one day, or before eight o'clock in the morning or after seven o'clock in the evening of any day. The foregoing provision shall not apply to any employment prohibited or regulated by section four hundred and eighty-five of the penal law. No female employee shall be required, permitted or suffered to work in or in connection with any mercantile establishment in any second class city more than fifty-four hours in any one week, and elsewhere more than sixty hours in any one week; or more than nine hours in any one day in any second class city; or elsewhere more than ten hours in any one day, unless for the purpose of making a shorter day of some one day of the week; or before seven o'clock in the morning or after six o'clock in the evening of any day in any second class city, or elsewhere after ten o'clock in the evening of any day. This section does not apply to the employment of persons sixteen years of age or upward on Saturday, provided the total number of hours of labor in a week of any such person does not exceed fifty-four hours in any second-class city or elsewhere sixty hours, nor to the employment of persons during the five days preceding the twenty-fifth day of December in any second class city, or elsewhere between the eighteenth day of December and the following twenty-fourth day of December, both inclusive. Not less than forty-five minutes shall be allowed for the noonday meal of the employees of any such establishment. Whenever any employee is employed or permitted to work after seven o'clock in the evening, such employee shall be allowed at least twenty minutes to obtain lunch or supper between five and seven o'clock in the evening.

The provision of this section as to lunch and supper time between five and seven o'clock in the evening first appeared in the Labor Law by the amendment to section 161 by chapter 387 of the Laws of 1910. The section was again amended by chapter 866 of the Laws of 1911 and by chapter 493 of the Laws of 1913. Both of these amendments retain this provision without change.

While the subhead of section 161 is "Hours of labor of minors",* the section deals with other subjects, to wit: female employees who are not minors, and the noonday meal hour of any employee in the mentioned establishments as well as the supper or lunch hour between five and seven o'clock in the evening of any employee of such establishment employed or permitted to work after seven o'clock in the evening. The same is true of the heading of the article in which the section is contained. The article notably in section 168 treats of regulations applicable to employees of both sexes and all ages.

The effect of putting this provision in section 161 of the Labor Law was to apply to employees of the various establishments mentioned in this section, a rule similar to that which is applied to employees of factories by section 89 of the Labor Law.

The definition of "employee," in section 2 of the Labor Law, is "a mechanic, workingman or laborer who works for another for hire." This plainly includes those employed in the establishments mentioned as well as those employed in factories and there is no reason why one class required to work after hours should not have the same right to obtain food as the other. The necessity is as great in one case as the other.

The language used in this provision of the section is plain and unambiguous and the words "any employee" are used. Where the section is limited

* The subhead of section 161 was amended by L. 1914, chapter 381, in effect April 14, to read "Hours of labor of minors and women; time for meals."

in its application to "female" employees, that word of limitation is carefully used. This occurs in its provision limiting the hours of labor.

It is a well-settled rule that plain and unambiguous language in a statute should be given its ordinary meaning and the words "any employee" includes all employees. I am, therefore, of the opinion that this provision of section 161, as to supper and lunch time, applies to all employees of such establishments employed or permitted to work after seven o'clock in the evening.

Dated January 29, 1914.

THOMAS CARMODY,
Attorney-General.

TO HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.*

(b) Children Under Sixteen Years of Age Forbidden to Deliver Newspapers
During Prohibited Hours

January 29, 1914.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—I have received your favor of January 22d, making inquiry as to whether the provisions of the Labor Law apply to prohibit all boys under sixteen years of age from delivering newspapers. Replying thereto I beg leave to call your attention to the phraseology of section 161, to which you refer, which provides as follows in its first sentence:

No child under the age of sixteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, business office, or telegraph office, restaurant, hotel, apartment-house, bowling alley, or in the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles or as a messenger, usher or checker in places of amusement, more than fifty-four hours in any one week, or more than nine hours in any one day, or before eight o'clock in the morning or after seven o'clock in the evening of any day.

The words which I have italicized seem to be applicable to the case which you present and would seem to form an express statutory prohibition against the distribution by a minor under the age of sixteen years of newspapers, which must certainly be considered as articles. The provision of the statute is very broad in its scope, and I do not think can be limited to exclude any commodity or thing. If, as you suggest, the prohibition works an injustice in discrimination against the morning newspapers, the remedy is with the Legislature.* That body is now in session and its attention could properly be called to the situation if you deem it advisable.

Very truly yours,

THOMAS CARMODY,
Attorney-General.

By J. A. KELLOGG,

First Deputy.

* Section 161-b added by L. 1914, chapter 21, in effect March 5, legalised the delivery of newspapers in the afternoon by boys over twelve years of age, and in the morning by boys over fourteen years of age, provided permits and badges were obtained from the educational authorities.

(c) All Women Irrespective of Age Are Forbidden to Work Before Seven A. M. or After Ten P. M. in Mercantile Establishments

November 11, 1914.

HON. JAMES M. LYNCH, *Commissioner, Department of Labor, Albany, N. Y.:*

DEAR SIR.—Receipt is acknowledged of your letter of October 30th, received at this office November 3d, making inquiry as to the constitutionality of the provision of section 161 of the Labor Law prohibiting women working in mercantile establishments before 7 o'clock in the morning or after 10 o'clock in the evening.

Tracing this statute as far back as Laws of 1903, chapter 255, we find that the provision "before 7 o'clock in the morning or after 10 o'clock in the evening" applied only to women between 16 and 21. That same year section 77 is found in chapter 184. That section applied to factories and prohibited any women from working before 6 o'clock in the morning or after 9 o'clock in the evening. The Court of Appeals, in June, 1907, in *People v. Williams*, 189 N. Y. 131, declared section 77 unconstitutional upon the grounds fully stated in the opinion. That was an appeal from an order of the Appellate Division entered December 7, 1906. The Special Sessions, Appellate Division and Court of Appeals all agreed that the statute was unconstitutional. In chapter 507 of the Laws of 1907, section seems to have been amended in compliance with the Court of Appeals decision, so as to apply only to females under 21.

Section 161 went along with its limitations as to females between 16 and 21 through various amendments, until the limitation as to age was dropped out by chapter 493 of the Laws of 1913.

As you point out, section 93-b of the Labor Law, enacted in chapter 83 of the Laws of 1913, seems to take the place of the old section 77 and is applicable to all females alike, on the ground, as expressed in the statute itself, that they must be given time to rest. No such reason is given in the amendment of 1913 to section 161.

Nevertheless, this is immaterial. The Legislature must be credited in amending section 161 by dropping out the limitation as to age, with full comprehension of the Court of Appeals case. We will not assume that they did this in ignorance or in defiance of the authority of that case. Rather, we must presume that this act of the Legislature is constitutional, and that it may be justified upon the reasons, purposes and information not before the court, or understood, at the time section 77 was in the Court of Appeals.

I am, therefore, of the opinion that you should regard that portion of section 161 of the Labor Law, which restricted the hours of labor of all women in mercantile establishments as constitutional.

Yours very truly,

JAMES A. PARSONS,
Attorney-General.

By EDWARD G. GRIFFIN,
Deputy Attorney-General.

(d) Only One Work Day in a Week May be Lengthened in Order to Provide One Short Work Day

December 14, 1914.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—Receipt is acknowledged of your letter of December 8th. You ask whether or not under the fifty-four hour law the statutory working day of nine hours may be lengthened on several days in order to make one day of the week shorter than nine hours.

It is my opinion that the intention of the Legislature is to permit the lengthening of only one day in the fifty-four hour week. The law prohibits working "more than nine hours in any one day, unless * * *." The "one" must have some significance, otherwise the sense would be complete by simply prohibiting working "more than nine hours in any day." The obvious purpose of the statute is to hold an employer down to a nine-hour day and then an exception is made for shortening one day. This purpose would evidently not be sustained if an employer were allowed to work his employees say eleven hours for four days, then nine hours on the fifth and only one hour on the last day.

Very truly yours,

JAMES A. PARSONS,
Attorney-General.

By EDWARD G. GRIFFIN,
Deputy Attorney-General.

(e) Subdivision 2 Does Not Apply to Restaurants, Lunch Rooms, and Hotel Dining Rooms

May 2, 1914.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—I acknowledge receipt of your letter of April 29th, asking whether or not subdivision 2 of section 161 of the Labor Law as amended by chapter 331 of the Laws of 1914 applies to restaurants and lunch rooms. It is my opinion that generally speaking, it does not.

I refer you to opinions of this Department printed at pages 596, 688 and 713 of the 1913 report. We were there dealing with section 8-a of the Labor Law which required that a day of rest be given to employees in factories and mercantile establishments. After a consultation with the Labor Department, as it was constituted at that time, we came to the conclusion that the law would not apply to employees in restaurants, lunch rooms and hotel dining rooms. The section now under discussion regulates the hours of women over the age of sixteen years who are employed in connection with mercantile establishments. Under the rulings previously referred to and under the

definition of mercantile establishments as contained in section 2 of the Labor Law, I am forced to conclude that lunch rooms and restaurants are not included in mercantile establishments as used in section 161. Further, in subdivision 1 of the section now under discussion mercantile establishments are referred to and the application of the statute extended by particular reference to restaurants and hotels, indicating that the Legislature did not consider such places included in the general term "mercantile establishments." As I have previously advised you, however, questions like these are largely questions of fact. A well-equipped labor inspector might find in some instances some restaurants were actually carrying on a mercantile business. That is, they are exposing their wares for sale much like a delicatessen shop or baker. This, of course, is not a restaurant business as it is commonly understood. The rule would be different in such cases.

Yours very truly,

THOMAS CAEMODY,
Attorney-General.

(f) Commissioner of Labor May Shorten Time for Lunch Elsewhere Than in Cities of the First and Second Class

September 22, 1914.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—I acknowledge the receipt of your letter relative to the enforcement of the provisions of subdivision 3 of section 161 of the Labor Law in cities other than first and second class. A representative of your Department has discussed the question with Mr. Griffin and recently left here a file of correspondence which is returned herewith.

It is my opinion that the power of the Commissioner of Labor to remit the requirements of section 161, subdivision 3, of article 12 of the Labor Law extends elsewhere in the State besides cities of the first and second class. Basing my conclusion upon the opinion of June 7, 1912 (1912 Report, 306), I believe it is the duty of the local officials charged with the enforcement of the law outside first and second class cities to enforce the statute as enacted by the Legislature or as its provisions may be remitted by you. You may, of course, act upon the recommendations of the local officials in shortening the time, since it is not required that the Commissioner personally acquaint himself with the local situations.

Yours very truly,

JAMES A. PARSONS,
Attorney-General.

HOURS OF LABOR OF EMPLOYEES IN DRUG STORES

Hours of All Employees Are Regulated Solely by § 236 of the Public Health Law

The hours of labor of all classes of employees, including cigar stand, soda water clerks, etc., are now controlled by the amendment of 1914 to section 236 of the Public Health Law.

INQUIRIES

Chapter 514 of the Laws of 1914, amending section 236 of the Public Health Law, provides:

§ 236. Working hours and sleeping apartments. No apprentice or employee in any pharmacy or drugstore shall be required or permitted to work more than seventy hours a week. Nothing in this section prohibits working six hours overtime any week for the purpose of making a shorter succeeding week, provided, however, that the aggregate number of hours in any such two weeks shall not exceed one hundred and thirty-two hours. The hours shall be so arranged that an employee shall be entitled to and shall receive at least one afternoon and evening off in each week and in addition thereto shall receive one full day off in two consecutive weeks. No proprietor of any pharmacy or drug store shall require any clerk to sleep in any room or apartment in or connected with such store that does not comply with the sanitary regulations of the local board of health. The provisions of this section alone regulate working hours and sleeping apartments in pharmacies or drug stores.

1. Does this law apply only to licensed drug clerks or does it include also cigar stand, soda water clerks and all other employees?

2. Does it exclude the operation of section 8-a of the Labor Law ("Day of Rest Law") and other statutes from these employees?

OPINION

The difficulties of the questions presented lie chiefly in the definition of the words "apprentice," "employee," and "clerk." It will be noted that the unamended first sentence speaks of apprentices and employees. Then the amended portion goes on to provide:

The hours shall be so arranged that an employee shall be entitled to and shall receive at least *one afternoon and evening off in each week and addition thereto shall receive* one full day off in two consecutive weeks. (Part italicized new.)

It is my opinion that the word "employee" includes all persons employed in drug stores and pharmacies. It is used somewhat loosely in article 11 of the Public Health Law, of which the amended section is a part; and there is no evidence that it has any special or limited meaning. The term is not included among the numerous definitions of section 230. In section 235 "apprentices," "unlicensed employees," and "unlicensed assistants" are referred to, but there is no indication of an attempt to fix a terminology.

It would be, of course, absurd to say that the benefits of the statute apply only to employees of an unskilled kind, and that they do not include "licensed" or "graduate" employees. No argument is needed to show that such skilled and professional employees do receive all the benefits of the statute.

It follows, therefore, that the general term also includes all other employees of drug stores and pharmacies, for "employees" in its ordinary application

would include them, and wherever limited elsewhere in the statute the term is limited always by including such general classes, although perhaps excluding others. As a health measure, it is certainly as necessary for soda water clerks as for more highly trained employees.

The application generally of the section is made clear enough by the added last sentence. Provisions of the Labor Law and other statutes would not apply to any matter with which section 236 professes to deal.

Dated May 5, 1914.

THOMAS CARMODY,
Attorney-General.

To HON. JAMES M. LYNCH, *Commissioner of Labor.*

WORKMEN'S COMPENSATION LAW

- (a) **Workmen's Compensation Law Protects Only Such State and Municipal Employees As Are Engaged in Occupations Specified in the Act and Which Are Conducted for Pecuniary Gain**

The Workmen's Compensation Law, in its application to the State, its municipal corporations and other political subdivisions thereof, comprehends only those hazardous employments classified in section 2 of the law.

The restriction of the term "employment," as defined in the act, is applicable to the State, its municipalities and other political subdivisions.

INQUIRIES

From the Chairman of the State Workmen's Compensation Commission:

"What was the effect of the amendment to the Workmen's Compensation Act by chapter 316 of the Laws of 1914, to subdivision 3 of section 3 of such act, striking out the exclusion of the State, a municipal corporation or other political subdivision, and substituting therefor their inclusion?"

"Specifically, what employees of the State and its political subdivisions are in your opinion covered, that is, whether all employees, or only such as are engaged in the hazardous employments set forth in section 2 of the Act?"

"Also, specifically, whether the provision of subdivision 5 of section 3 applies, limiting employment to 'a trade, business or occupation carried on by the employer for pecuniary gain?'"

OPINION

When the Workmen's Compensation Law was enacted in 1913 by chapter 316 of the Laws of that year it contained as a definition the following:

"Employer," except when otherwise expressly stated, means a person, partnership, association, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association or corporation, employing workmen in hazardous employments; *but does not include* the state or a municipal corporation or other political subdivision thereof.

By chapter 316 of the Laws of 1914, this definition was amended to read as follows:

"Employer," except when otherwise expressly stated, means a person, partnership, association, corporation, and the legal representatives of a deceased employer,

or the receiver or trustee of a person, partnership, association or corporation, employing workmen in hazardous employments *including* the state and a municipal corporation or other political subdivision thereof.

The effect of this amendment was to do away with the provision contained in the original enactment excepting the State, its municipalities and other political subdivisions from the operation of the law, and to substitute therefor a definition expressly including them in the act as amended. There was, however, nowhere any provision increasing the liability of the State or its municipalities or other political subdivision beyond that provided as to private corporations and individuals. The State and its political subdivisions were brought within the same class as other employers previously made liable.

It therefore follows that all the provisions of the act are applicable to the State and its political subdivisions. There is no liability created as against the State or its political subdivisions except that created by section 2 of the act as to hazardous employments therein in detail classified.

The term "employment," defined in subdivision 5 of section 3 as follows:

"Employment" includes employment only in a trade business or occupation carried on by the employer for pecuniary gain.

is applicable to the State, its municipalities and political subdivisions. It may very properly be urged that there are not many occupations carried on by the State, its municipalities, and political subdivisions, for pecuniary gain, but only so far as there are such occupations has the statute included the State and its political subdivisions within its provisions.

There is no liability created by this act except by virtue of its provisions, and it cannot logically be urged that a statute which expressly limits its application to certain employments can be extended to include other employments.

When by the amendment of 1914 the State and its political subdivisions were included within the definition of "employer," no greater or different liability was imposed than that provided by the statute itself as to employers in general.

When the Legislature placed these governmental agencies *within* the duties and liabilities of the law it cannot be said to have thereby extended the measure of their obligations *beyond* such duties and liabilities.

THOMAS CARMODY,
Attorney-General.

Dated June 9, 1914.

TO HON. ROBERT E. DOWLING, *Chairman, State Workmen's Compensation Commission, 1 Madison Avenue, New York City.*

The Attorney-General has been frequently called upon to construe the application of the preceding opinion to various State undertakings. He has taken the position in various communications addressed to State officers that the Workmen's Compensation Law does not apply to persons employed directly by the State in the State Highway Department, Palisades Park, and the State Hospitals. He has also said that persons cared for by the State Commission for the Blind and employed directly by that commission are not entitled to the benefits of the act. He has also held that the State is not

liable for compensation in connection with the Canasraga creek improvement.

(b) Employees of Municipal Water Departments Are Not Protected by the Compensation Law

December 4, 1914.

HON. JEREMIAH F. CONNOR, *Counsel, State Workmen's Compensation Commission, 1 Madison Ave., New York City:*

DEAR MR. CONNOR.—Receipt is acknowledged of your letter of November 30th.

It is the opinion of this office that water departments of cities are not carried on for the purpose of pecuniary gain, whatever the result may be in some cases. Their purposes could never be justified under the law of this State upon the ground that they are money-making or money-saving concerns.

It is therefore my opinion that employees of such departments are not protected by the provisions of the Workmen's Compensation Law.

Yours very truly,

THOMAS CARMODY,
Attorney-General.

By E. G. GRIFFIN.

(c) Application of Compensation Law to Agricultural Societies

September 2, 1914.

HON. CALVIN J. HUSON, *Commissioner of Agriculture, Albany, N. Y.:*

DEAR SIR.—In pursuance to a conversation had with Mr. Power of your department this morning as to the responsibility of agricultural societies under the Compensation Act, beg to say in the first place I still insist that this is a question that should be passed upon by the counsel for the Compensation Commission, as I believe it is part of the duty of the Compensation Commission to determine whether a given employment goes under the act or not. However, I have no objections to giving you my views of this matter, although it is not a formal opinion, as a formal opinion could not be prepared within the time which you mention.

An agricultural society is not within the provisions of the Compensation Act when it is simply performing the ordinary function of conducting the agricultural exhibition. What I mean by that is the business which it is necessary to transact to conduct its exhibition, such as clerk hire, ticket selling and such things. On the other hand, I believe that where an agricultural society engages in any of the occupations that are listed in the act as hazardous it is within the provisions of the Compensation Act. What I mean by that is this: Very frequently the agricultural societies have to con-

struct buildings, make repairs upon the same and do any number of acts along that line which, it seems to me, so far as those acts are concerned, would bring them within the provisions of the Compensation Act, as most all agricultural societies are incorporated under the provisions of a membership Corporation Law, and I cannot see any reason why they are not within the provisions when performing any of the acts that are listed in the statute as hazardous.

Yours truly,

THOMAS CARMODY,
Attorney-General.

By JAMES A. PARSONS,
Deputy Attorney-General.

INDEX TO LAWS RELATING TO LABOR

	PAGE
ABANDONMENT of mines or quarries, notice.....	86
Accidents, deaths or injuries, building work, records and reports.....	20
causes, workmen's compensation commission to report.....	204
compensation, notices to commission and employers.....	119, 194
workmen's compensation law.....	185
employers, liability	115
records and reports required.....	209
factories, preventive regulations, industrial board's powers.....	58
records and reports required.....	63
foundries, medical supplies	72
legislature, constitutional powers	185
public work	227
mines, tunnels and quarries, commissioner of labor's reports.....	84
guarding of dangerous machinery.....	92
records and reports	86
relief measures	94
prevention, employers' associations	206
industrial board may make rules.....	25
museum and school manual	82
railroads, bail for employees.....	256
report to public service commissions.....	251
statistics, division of department of labor.....	81
Advertisements, employment offices, public, commissioner of labor's powers..	35
false or misleading, employment agencies, private.....	297
Amdavits, commissioner of labor and subordinates may take.....	23
industrial board and secretary may take.....	25
school age of children	107
penalty for false statements.....	171
Age limits and certificates, factories.....	87
penalty for false statements.....	171
mercantile establishments	105
Agriculture (see also Farm labor):	
schools, establishment and support.....	264
Air-brakes required on railroads, freight trains.....	250
locomotive equipment for operating.....	249
passenger cars	247
Air pipes in caisson work.....	90
Air pressure in caisson work, decompression time.....	88, 96
gauges required	85, 95
instruments to show	88
Air space per person, cannery sleeping quarters.....	129
factory workrooms	61
tenement houses	75
Allens, apprenticeship	262
bureau of industries and immigration, provisions governing.....	98
education, co-operation of school authorities and industries and immigra- tion bureau	98
employees, compensation for injury or death, commutation.....	193
moving picture machines in New York city, not to operate.....	274
peace officers, special, not to be.....	288
public works, employment prohibited.....	16
prosecutions	21
steam boilers in New York city, not to operate.....	276
vessel pilots, engineers or masters, not to be.....	271

326 * REPORT OF THE COMMISSIONER OF LABOR, 1914

	PAGE
American Museum of Safety.....	82
Amusement places, child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work	103
posting of laws and regulations.....	113
register to be kept, law enforcement.....	108
unlawful employment, penalty	175
immoral, employment agencies not to send female applicants to.....	297
Animals, bakeries, prohibited	80, 139
caisson air chambers, prohibited.....	95
deaths caused by, criminal liability.....	212
labor camps, distance of stables or shelters.....	134
Anthrax, medical practitioners to report cases.....	32
"Anti-Pinkerton" act	288
Apartment houses, child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work	103
posting of laws and regulations.....	113
register to be kept, law enforcement.....	108
unlawful employment, penalty	175
Apprentices, indenture provisions, commissioner of labor to enforce.....	21
law relative to	261
taking without guardians' consent, penalty.....	181
Arbitration and mediation bureau.....	96
Arbitrators, local boards of.....	97
Armed guards, hiring	288
Armories of state, employees' wages and vacations.....	228
Arrests without lawful authority	288
Ashes (see Waste).	
Assignment, apprenticeship indentures	263
proceedings, wages preferred claims.....	223
wages	218
personal loan companies and brokers, regulations.....	221
municipal employees	229
railroad employees	16
workmen's compensation	197
Assumption of risks by employees.....	117
Attachment, New York city, collection of wages by municipal court actions..	222
fees prohibited	224
tools and teams exempt from.....	216
workmen's compensation exempt from	197
Attendance officers and truant schools, provisions governing.....	176
Automatic sprinklers in factories.....	53, 60
BADGES, chauffeurs	272
commissioner of labor and subordinates.....	23
employment agency inspectors, New York city and Buffalo.....	298
labor organizations, unauthorized use.....	282
newspapers, male children distributing.....	104, 123
railroads, passenger train and station employees.....	255
policemen	256
sailors' boarding house keepers	301
steamboat policemen	256
Bail for railroad employees in cases of accident.....	256
Bakeries and confectioneries, animals prohibited in.....	80
connection with stables, hen houses, etc., prohibited.....	139
cellar bakeries, definition and regulation.....	79, 80, 82, 140
cities first class, health department to have jurisdiction.....	78
cleanliness	79, 135
clothing of employees	80, 137, 138

Bakeries and confectioneries — Continued:	PAGE
communicable diseases, prohibited employment of persons having.....	80
definitions of terms	79
factories, classified as	79
hotel bakeries, commissioner of labor's powers.....	79
hours of work, Sundays, setting sponges.....	13
industrial board's powers, sanitary code.....	83, 135
inspection and regulation	80
jurisdiction of labor and health authorities.....	79
physical examination of employees	80, 140
sanitary requirements	79, 135
certificates	81
sleeping in, prohibited	80, 137
tenement house basement bakeries	75
Bankers, private, law enforcement.....	99
Barber shops, child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements	171
hours of work	103
posting of laws and regulations.....	113
registers to be kept, law enforcement.....	108
unlawful employment, penalty	175
Sunday labor prohibited, exceptions.....	184
Barracks (see Labor camps).	
Basements, bakeries in	79, 80, 82, 140
factories, cleanliness	61
food product manufacturing	80
mercantile establishments, employment of women and children.....	112
tenement houses, manufacturing in.....	75
Bathing facilities, calsson works, required.....	89
cannery, labor camps, required.....	131
Beds, cots or bunks, cannery living quarters.....	130
Belt shifters, factories to provide.....	57
Bends (see Calsson work; Occupational diseases).	
Blacklisting, judicial decisions relative to.....	285
Blasting, electric current, maximum voltage.....	87
safety regulations	85, 92, 93, 95
Block system, hours of labor under.....	12
Board of ——— (see Name of particular board; e. g., Health boards and officers, local).	
Boarding houses, communicable diseases, employees to be free from.....	140
sailors, employment agencies in connection.....	292
license and regulation	299
Bollers (see Locomotive bollers; Steam bollers).	
Bolts on machinery to be countersunk or covered.....	57
Bonds, canal contractors, payment of employees' wages.....	237
convict-made goods, sellers	114
employment agencies, private	292
immigrant lodging place keepers.....	101
Bootblacks (see Shoe-polishing establishments).	
Bowling alleys, child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work	108
posting of laws and regulations.....	113
registers to be kept, law enforcement.....	108
unlawful employment, penalty	175
Boycotting, judicial decisions relative to.....	284
Brakemen as policemen	255
Brakes, automatic, freight trains to be equipped with	250
locomotive equipment for operating.....	249
passenger cars to be equipped with.....	247

328 * REPORT OF THE COMMISSIONER OF LABOR, 1914

	PAGE
Branch offices of department of labor.....	23
Breweries not to employ children.....	67
Bribery, employees, agents or servants.....	213
labor organization representatives.....	283
Brickyard employees, hours of work, overtime.....	11
penalty for violations	170
Bridge guards on railroads	251
Buffalo (see also Municipal corporations):	
employment agencies, inspection	208
Buffing wheels, equipment with hoods, pipes and fans.....	58
minors and women not to operate.....	67
Buildings, erection, accidents, records and reports.....	20
safety requirements	18
penalty for violations	171
factories, construction and inspection.....	45, 66, 156
existing buildings	47
stairways, industrial code rules	128
industrial board, powers	50
labor organizations may incorporate for ownership of.....	280
mercantile establishments, industrial board's powers.....	111
inspection	113
state, erection or repair, inmate or outside labor.....	228
Bulletins (see Printing and publication).	
Bureaus of department of labor:	
employment bureau	33
industries and immigration bureau.....	98
inspection bureau, divisions, names and number.....	26
factory inspection division	27
homework inspection division	29
industrial hygiene division	30
medical inspection section	30
mercantile inspection division	29
powers and duties	26
mediation and arbitration bureau, organization and duties.....	96
names and number	23
report of operations, annual	24
industrial hygiene division	30
mediation and arbitration bureau.....	97
statistics and information bureau, chief statistician.....	31
divisions, names, number and duties.....	31
general labor statistics division.....	31
industrial accidents and diseases division.....	31
industrial directory division	31
labor market bulletin	35
printing and publication division.....	31
special investigations division	31
Burns in foundries, first aid supplies.....	72
'Bus or cab lines, unclaimed property left in vehicles, disposition.....	257
Business offices, child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work	103
posting of laws and regulations.....	113
registers to be kept, law enforcement.....	108
unlawful employment, penalty	175
CABOOSE cars on railroads, requirements.....	250
Calsson work, air pipes.....	90
coffee and sugar, supply to workers.....	96
comfort and safety of employees.....	88
decompression time	88
record	96

Caisson work — Continued :	PAGE
gauges of air pressure, required	85, 95
hours of labor	87
record	96
instruments to show air pressure.....	88
lock regulations	95
medical officers, attendance and duties.....	88
penalty for violations of requirements.....	90
reports of sickness, medical practitioners to make.....	32
Canal wages, bond of contractors for payment.....	237
minimum rate	9
Canneries, hours of labor, minors and female employees.....	43, 128
labor camps, sanitation	129
Cash payment of wages	14
penalty for violations	170
Ceilings, bakeries, construction and repair.....	135
painting or limewashing.....	79, 135
factory workrooms, cleanliness	61
mercantile establishments, cleanliness	109
Cellars, bakeries in, definition	79
height	79
hereafter located	82, 140
food products, manufacture	80
mercantile establishments, women and children, employment.....	112
tenement houses, manufacturing in	75
Chauffeurs, licenses and qualifications.....	271
Childbirth, employment of women after.....	68
Children under sixteen (see also Minors over sixteen) :	
apprenticeship	261
cannery sleeping quarters, air space.....	129
compulsory education	172
delinquency, newspapers, etc., illegal street sales.....	124
contributory delinquency of adults	124
employment agencies not to place in illegal employment.....	297
employment offices, public departments and activities.....	34
endangering life, health or morals of, penalty.....	178
factories, employment in	37
certificates, penalty for false statements.....	171
custodian, term defined	71
hours of labor	42
prohibited employments	67, 156
farm labor	37
machines and machinery, dangerous, prohibited operations.....	67
mercantile establishments, age minimum and certificate.....	105
penalty for false statements.....	171
basement work	112
hours of work	103
messengers, night work prohibited.....	104
mines or quarries, employment prohibited.....	86
motor boats, not to operate.....	271
newspapers, distribution	104
street sales, hours of work.....	124
periodicals, street sales, hours of work.....	124
prohibited employments, theatrical, begging, etc.....	179
schooling, compulsory education	172
industrial training in public schools.....	264
labor camps for public works.....	268
record certificates, evening, part-time or continuation schools.....	176
employers to display.....	175
factories	39, 175
mercantile establishments	108, 175
steam vessels, not to operate.....	271
street trades, employment in	122

330 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Children under sixteen — Continued:	PAGE
tenement houses, dressmakers' shops, not to live or work in.....	75
illegal employment, revocation of licenses.....	74
unlawful employment, definition and penalty.....	174
wages, payment	181
wearing apparel, manufacture in tenements prohibited.....	77
workmen's compensation, defined relative to	189
limitation of actions	210
wages as basis	191
Christmas holidays, hours of work in mercantile establishments.....	182
Civil service, labor class in, city service.....	229
state service	227
Cleanliness, bakeries	79, 135
cannery living quarters	182
factories, drinking water receptacles.....	63
rooms, buildings and premises.....	61
"unclean" label	69
labor camps	134
laundries	66
mercantile establishments, rooms, buildings and premises.....	109
water-closets	111
tenant-factories	69
tenement houses	74
"Closed Shop", judicial decisions relative to.....	285
Clothing, bakery employees	80, 138
place of changing	137
cannery employees, tubs for laundering.....	181
factory employees, industrial board may regulate.....	57
foundry employees, drying facilities.....	71
lockers	71
"Coal jimmies", railroads not to use.....	250
Coercion, definition and penalty.....	286
Coercion of employees, elections.....	215
labor organizations, membership	283
Cogs and gearing, boxing or casing.....	57
Combustible materials (see Inflammable materials).	
Commissioner of labor, annual reports	24
industrial hygiene	30
mediation and arbitration bureau.....	97
mine, tunnel and quarry statistics.....	84
appointment, term and salary.....	22
labor law, enforcement	21
orders, penalty for violation or non-compliance.....	171
Common carriers, disorderly conduct on cars, stages, boats, etc.....	287
free transportation of employees.....	257
intemperate persons, employment prohibited.....	254
public service commission's powers relative to.....	259
unclaimed property left in cabs, cars, etc., disposition.....	257
Communicable diseases, bakeries, prohibited employment of persons having ..80,	140
factories	69
food not to be handled by persons having.....	140
labor camps, report of cases.....	134
mattress-making material	70, 169
tenement houses	73, 74, 76
Company stores, public work contracts, illegal.....	15
penalty for violations	170
Compressed air (see Caisson work).	
Comptroller, convict-made goods, licenses to sell.....	113
Compulsory education	172
Conductors, railroads, service as policemen.....	255
street railways, qualifications	253
Confectioneries (see Bakeries and confectioneries).	

	PAGE
Conspiracies, judicial decisions relative to.....	285
law relative to	285
Contagious diseases (see Communicable diseases; Health headings).	
Continuation schools, child employees, attendance.....	173
employers to display certificates.....	175
certificates of attendance, contents and issue.....	176
vocational training	264
Continuous processes, employees, hours of work.....	13
Contract labor employment agencies, investigation.....	99
statements	294
Contracts of municipal corporations, transfer or subletting.....	236
Contributory negligence	117, 190
Conversion of materials furnished for manufacture, penalty.....	213
Convicts, goods made by, sale regulations.....	118
penalty for violation	169
labor	238
highways	240, 243
Cooks, communicable disease a bar to employment.....	140
Core-rooms (see Foundries).	
Corporation wages, cash payment.....	15
weekly payment	15
Counsel and assistants, department of labor, appointment and compensation..	24
industrial board, service.....	24
Couplers, automatic, freight cars to be equipped with.....	247, 250, 251
Cuspidors, requirement in factory workrooms.....	61
Custodian, term defined relative to child employees of factories.....	71
DAMAGES for injuries (see Death damages; Employers' liability; Workmen's compensation).	
Dangerous industries, trades or occupations, industrial board to regulate.....	72
licenses	271
Days of rest (see Hours of labor; Rest periods for employees).	
Death damages, constitutional provisions.....	185, 212
parties who may maintain actions, time limit.....	212
Debts (see Attachment).	
Definitions, bakeries, terms applicable to.....	79
block system	12
common use of towels, drinking cups and eating utensils.....	64
employee	7
free transportation by common carriers.....	258
employer	7
employment agencies, terms applicable to.....	100, 290
factories, terms applicable to.....	7, 45, 53, 66, 68, 69, 71, 149
holiday and half-holiday	182
immigrant lodging place	101
indenture	261
industrial code	26
industrial directory	31
industrial disputes, terms applicable to.....	284
mercantile establishment	8
sailors' boarding houses, terms applicable to.....	301
tenant-factory	68
owner, term defined	69
tenement house	8
workmen's compensation, terms applicable to.....	188
Delinquency (see Juveniles).	
Department of labor, deputies, authority.....	8, 22
organization and powers.....	22
railroad hours of labor, inspectors.....	12
salaries and expenses	23
Deportation of aliens	99

332 * REPORT OF THE COMMISSIONER OF LABOR, 1914

	PAGE
Depositions, commissioner of labor may take.....	32
workmen's compensation commission, power to take.....	201, 203
Deputy commissioners of labor, appointment, salaries and duties.....	22
Dining rooms and kitchens, cannery labor camps.....	130
Diseases (see Communicable diseases; Health headings; Occupational diseases; Sanitation).	
Disorderly conduct on public conveyances, penalty.....	287
Disputes (see Industrial disputes).	
Distilleries not to employ children.....	67
Distribution services, child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work.....	103
posting of laws and regulations.....	113
registers to be kept, law enforcement.....	108
unlawful employment, penalty.....	175
District attorneys, convict-made goods, law enforcement.....	115
labor law violations, prosecution.....	21
Documentary matter in department of labor, destruction after six years....	24
Dolls or dolls' clothing, manufacture in tenements prohibited.....	77
Doors of factories, cannery labor camp privies.....	131
elevator and other shafts.....	46, 150, 151
exterior screened stairway openings.....	56
fire doors defined.....	55, 157, 160, 165
fire escapes of existing buildings.....	48
fireproof exterior stairway openings.....	55
fireproof partition openings.....	55
fire wall openings.....	54
locking during work hours prohibited.....	50
obstruction by bars, grating or mesh prohibited.....	50
opening outward required.....	46, 48, 56
stairway partitions.....	47, 128
width.....	46
Drainage (see Plumbing and drainage).	
Dressing rooms, bakeries and confectioneries.....	137
caisson work.....	89
factories.....	64
mercantile establishments, female employees.....	110
Dressmakers' shops in tenement houses.....	75
Drinking water, cups, common use prohibited.....	64
factories.....	63
mercantile establishments.....	110
Drug store apprentices and employees, hours and sleeping apartments.....	182
Dumb waiters in factories, term defined.....	150
Dust, bakeries, devices for removing.....	79
foundry milling processes, protection of employees.....	71
machinery creating, equipment with hoods, pipes and fans.....	58
operations creating, equipment with exhaust fans.....	62
EATING in workrooms (see also Lunches; Meals):	
factories.....	66
mercantile establishments.....	66
tenement houses.....	75, 77
utensils, common use prohibited.....	64
Education (see Schooling of minor employees).	
Eight-Hour Law.....	9
convict labor.....	239
factories, children under sixteen.....	42
mercantile establishments, etc., children under sixteen.....	108
reservoir construction for New York city.....	237

	PAGE
Elections, voting of employees, decrees and intimidation.....	215
time allowance	215
Electric switchboards, rubber mats on floors.....	20
Elevated railroads (see also Railroads; Street railways):	
employees, hours of work, cities 1st and 2d class.....	11
penalty for violations	170
train service, misconduct of employees.....	254
Elevators, building work, floor shafts or openings, enclosure.....	19
children not to operate.....	67, 156
factories, fire alarm signal systems not to cut off power.....	142
fireproof enclosure	46
qualifications for operating	156
safety regulations	44, 149
minors under eighteen not to operate when speed exceeds 200 feet a minute	67
factories, industrial code rule.....	156
Emergency rooms in factories.....	64
Employment, agencies, private, defined and regulated.....	100, 289
investigation	99
bribery of employees	213
bureau of department of labor.....	33
canneries, minors and women.....	43, 129
co-operation of industries and immigration bureau with federal bureaus..	98
employee, term defined.....	7
common carriers, relative to free transportation.....	258
workmen's compensation, relative to.....	188
employer, term defined.....	7
workmen's compensation, relative to.....	188
factories, children	37
certificates, penalty for false statements.....	171
liability of employer.....	115
constitutional provisions	183, 212
criminal liability	212
railroad corporations' liability.....	211
workmen's compensation provisions.....	190, 197, 198
mercantile establishments, children, age limit and certificate.....	105
penalty for false statements.....	171
national guardsmen, discrimination against.....	282, 286
offices, public, establishment by commissioner of labor.....	33
penalty for acceptance of fees.....	171
political and legal rights and privileges of employees.....	215
term defined relative to workmen's compensation.....	188
Endangering life or property, penalty.....	287
refusal to labor.....	286
Engineers, accidents in engineering work, records and reports.....	20
locomotive, ability to read.....	253
mines and quarries, qualifications and duties.....	91
steam boilers, New York city, licenses and qualifications.....	276
vessels propelled by machinery, licenses and qualifications.....	271
Evening schools, boys between fourteen and sixteen, attendance.....	173
certificates of attendance, contents and issue.....	176
employers to display.....	175
vocational training and home making courses, minors over sixteen.....	264
Evidence, accident reports of employers inadmissible.....	20
factory accidents	63
mine, tunnel and quarry accidents.....	86
railroad accidents	251
commissioner of labor may take and hear testimony.....	32

334 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Evidence — Continued :	PAGE
factories, hours of children, minors and women, violation.....	42
burden of proof.....	44
juvenile delinquency in street trades, contributory conduct of adults.....	124
labor organizations, bribery of representatives.....	283
mercantile establishments, etc., illegal employment of children.....	109
policemen on railroads or steamboats, unauthorized action as.....	258
workmen's compensation commission, hearings.....	202
Excavation work (see Buildings).	
Exhaust fans, factories	58, 62
foundries	71
Exhibitions, prohibited employment of children.....	179
Exits, factories, elevators to outsides of buildings.....	155
horizontal exits defined.....	56
number and location.....	46
existing buildings	47
obstruction prohibited	50, 149
signs and lights.....	50
mines	84
Explosives, children not to manufacture.....	67
extortion by threat to use.....	286
mines, quarries and tunnels, storage and handling.....	85, 92, 98, 94
rules, commissioner of labor to make.....	85
use	85
Extortion, definition and penalty.....	286
Extra compensation (see Overtime).	
FACTORIES, accidents, records and reports required.....	63
bakeries classified as, jurisdiction.....	79
buildings, construction, buildings hereafter erected.....	56, 145
existing buildings	47
certificates of approval and compliance.....	51
industrial code rules.....	128
definition of term factory building.....	8
cannery living quarters, regulation.....	129
childbirth, employment of women after.....	68
children, employment	37
certificates, penalty for false statements.....	171
unlawful employment, penalty.....	175
cleanliness, rooms, buildings and premises.....	61
"unclean" label	69
conversion of materials furnished for manufacture, larceny.....	213
dangerous trades, industrial board may regulate.....	72
definitions of terms.....	7, 45, 53, 68, 69, 71, 79
drinking, cups, common use prohibited.....	64
water supply	63
elevators and hoistways, safety regulations.....	44, 149
fire drills	59
fire preventive regulations	59, 141, 149, 156
stairways, industrial code rules.....	128
hours of work, children, minors and women.....	42
rest day, one in seven.....	13
industrial board, powers.....	50
rules, enforcement	28
industrial directory	31
inspection, commissioner of labor's duties.....	66
districts and sub-districts.....	27
division of department of labor.....	27

Factories, inspection, division of department of labor — Continued :	PAGE
homework inspection	29
industrial board's powers.....	25
labor camps	72, 99
inspectors, appointment, number and salaries.....	27
labor camps, sanitation.....	72, 133
location, report of changes.....	37
machinery, safety and health regulations.....	57
meals, food not to be taken into poisonous workrooms.....	66
time allowance	66
utensils, common use prohibited.....	64
municipal ordinances, enforcement.....	28
night work prohibited, children and minors.....	42
women	68
occupants, limitations of number.....	51
posting (see main title Posting of laws, licenses, permits, rules, etc.).	
registration with department of labor, required.....	36
seats for female employees, required.....	17, 64
tenant-factories, defined and regulated.....	68
tenement houses, articles or materials given out to.....	75
permits required	78
prohibited manufactures in	77
towels, common use prohibited.....	64
ventilation	62
washrooms	63
waterclosets	64
work for a factory, definition	7
False statements, canneries, time books of female employees.....	44
children's employment certificates, penalty.....	171
department of labor's investigations.....	32
employment agencies	293, 297
employment, to persons furnished or securing, penalty.....	290
workmen's compensation, insurance.....	208, 209
to obtain	210
Family, defined relative to tenement rooms or apartments.....	77
Fans (see Exhaust fans).	
Farm labor, children	37
eight-hour law not to apply.....	9
employment offices may organize divisions.....	34
statistics, commissioner of agriculture to collect.....	246
workmen's compensation law not applicable to.....	188
Fellow servant doctrine.....	116, 190
railroad accidents	211
Female employees (see Minors; Women employees).	
Fifty-four hour law, factories, minors and women.....	42
mercantile establishments, female employees over sixteen.....	103
Fire alarm signal systems and drills in factories.....	59, 141, 149
Fire prevention, factories, buildings, construction.....	45, 156
existing buildings	47
exterior screened stairways defined.....	56
fire doors, defined.....	55, 157, 160
tests	165
fire-escapes on existing buildings.....	47, 48, 140
fire walls defined.....	54
fireproof construction defined.....	54
fireproof material, defined.....	54, 156
tests	161

336 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Fire prevention, factories— Continued :	PAGE
fireproof partitions, defined.....	55, 157, 169
tests	164
fireproof stairways exterior enclosed, defined.....	55
fireproof windows, defined.....	55, 158
tests	167
horizontal exits defined.....	56
incombustible material, defined.....	54
regulations	59, 141
stairways	128, 159
industrial board may make rules.....	25
mine regulations	92
Firemen for stationary engines, licensing in New York city.....	278
"First aid" supplies in foundries.....	72
Floors, bakeries	79, 135, 137
building operations, completion as work progresses.....	19
penalty for violations	171
canneries, employing women, drainage and platform.....	128
living quarters, construction	129
factories, cleanliness	61
dressing or emergency rooms, area.....	64
fire resisting construction.....	156, 161
floor area, term defined.....	45
waterclosets	65
mercantile establishments, cleanliness and safety.....	109
dressing rooms, area.....	110
waterclosets	111
Food, handling by employees with communicable diseases, prohibited.....	140
manufacture, cellars	80
industrial board's powers, sanitary code.....	83
tenement houses, prohibited.....	77
Forty-eight-hour law for children under sixteen, factories.....	42
mercantile establishments, etc.....	103
Foundries, construction and maintenance.....	71
female employees	68
Free employment offices, establishment by commissioner of labor.....	33
Free transportation of employees by common carriers.....	257
"Full crew," railroad freight trains.....	251
Fumes, gases and vapors, bakeries.....	79
factory suction devices, required.....	62
foundries, exhaust fans.....	68
female employees, partitions to protect.....	71
industrial board's power to make rules.....	72
GANGWAYS in foundries, width, obstruction prohibited.....	71
Garbage (see Waste).	
Garnishment of wages.....	216
state employees	228
Gas jets or lights in factories, protection.....	61
Gauges, caisson work, air pressure.....	85, 95
steam boilers, mines and tunnels.....	85
New York city.....	275
railroad locomotives	248
Gearing and cogs, boxing or casing.....	57
Grille work in factory elevators, minimum spacing.....	151
Grinding wheels, equipment with hoods, pipes and fans.....	58
Guard posts at bridges on railroads.....	251
Guards on factory machinery, removal and replacing.....	58
HALF-HOLIDAY, definition of term.....	183
Halls, factories, lighting.....	58
width at street level.....	46
labor organizations may incorporate for ownership of.....	280

	PAGE
Hand-planers to be equipped with guards.....	57
Head houses in underground workings.....	86
Health (see Communicable diseases; Health headings following; Occupational Diseases; Sanitation).	
Health boards and officers, local, bakeries and confectioneries in cities 1st class, jurisdiction	78
regulation	83
factories, contagious diseases, disinfection of articles.....	69
employment certificates, issue.....	37
reports to commissioner of labor.....	40
industrial poisonings, law enforcement.....	33
labor camps, sanitation.....	133
mercantile establishments, employment certificates, issue to children....	106
law enforcement	113
tenement houses, communicable diseases and unsanitary conditions, in- spections	77
infected articles, disinfection or destruction.....	77
Health of employees, constitutional powers of legislature.....	185
public work	227
industrial board, jurisdiction.....	25
rules and regulations.....	20, 128
industrial hygiene division of department of labor.....	30
medical inspection section.....	30
mines, tunnels and quarries.....	84
public health council, regulations.....	
Heat, excessive, appliances for reduction, bakeries.....	70
factory workrooms	62
Heating, caisson dressing rooms and medical locks.....	89
factories, dressing rooms.....	64
washrooms	63
workrooms	62
foundries	71
industrial board's power to regulate.....	72
mercantile establishments	112
dressing rooms	110
washrooms	110
water-closets	111
Highways, convict labor on.....	240, 243
hours of work, outside cities and villages.....	10
Hoisting, building operations, floor shafts or openings, inclosure.....	19
outside buildings five stories or more in height, prohibited.....	19
safety requirements, inspection of apparatus.....	18
penalty for violations.....	171
caisson shafts, ladders required.....	89
factories, fireproof hoisting enclosures.....	46
safety regulations	44, 149
mines, tunnels and quarries, appliances, inspection and safety.....	85, 91
engineers' qualifications and duties.....	91
shafts, timbering and guarding.....	91
way round bottom.....	86
Holidays and half-holidays.....	182
Home-making schools, establishment and support.....	264
Home work, inspection division of department of labor.....	29
Hotels, bakeries in, commissioner of labor's powers.....	79
child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work.....	108
posting of laws and regulations.....	113
registers to be kept, law enforcement.....	108

338 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Hotels, child employees — Continued :	PAGE
unlawful employment, penalty.....	175
communicable diseases, employees to be free from.....	140
towels, common use prohibited.....	64
waitresses, seats required.....	17
Hours of labor, bakeries and confectioneries, children, minors and women....	79
barber shops, Sundays in New York city and Saratoga Springs.....	184
brickyards	11
penalty for violations.....	170
caisson work	87
record	96
canneries, minor and women employees.....	43, 128
continuous processes	13
domestic servants excepted from eight-hour law.....	9
drug store apprentices and employees.....	182
eight hours a legal day's work.....	9
elevated railroads	11
penalty for violations.....	170
factories, children, minors and women.....	42
meal time allowance.....	66
rest day, one in seven.....	13
time books, employers to keep.....	14
farm labor, eight-hour law not to apply.....	9
boys over twelve.....	87
mercantile establishments, children, minors and women.....	103
rest day, one in seven.....	13
time-books, employers to keep.....	14
messenger, children under sixteen.....	103
minors under twenty-one, night work prohibited.....	104
milk industry	14
New York city, reservoir construction.....	237
newspapers, etc., children over twelve, routes.....	124
street sales	
pharmacy apprentices and employees.....	182
prisoners	239
New York city.....	245
prosecutions for law violations.....	21
public work	9
legislature's powers	227
railroads, steam surface and other.....	11
signalmen and others receiving and transmitting train orders.....	12
telegraph and telephone operators, block system.....	12
penalty for violations.....	170
reservoir construction, New York city.....	237
street railways	11
penalty for violations.....	170
voting, time allowance.....	215
Humidity, factory workrooms.....	62
industrial board's power to regulate.....	72
mercantile establishments	112
Husbands, assignment of wages, wives' assent requisite.....	221
Hydro-extractors, covers on guards.....	57
ICE CREAM manufacturing shops, use of cellars.....	80
sanitary regulations	138
Illumination (see Lighting).	
Immigrants, bureau of industries and immigration, provisions governing.....	98
lodging places, investigation.....	99
license and regulation	101
transportation tickets, sale.....	99
Incombustible material, defined relative to factories.....	54

	PAGE
Indenture of minors.....	261
commissioner of labor to enforce provisions.....	21
Industrial accidents and diseases, division of department of labor.....	31
Industrial board, state, accidents, associations for prevention, approval of rules.....	206
bakeries and confectioneries, sanitary code.....	83
conformation to	81
ventilating regulations	70
canneries, women employes, rules and regulations.....	43
code, industrial	26, 128
penalty for violation or non-compliance.....	171
counsel	24
dangerous industries, trades or occupations, power to regulate.....	72
employees	24
factories, children, dangerous machinery, prohibition of use.....	67
occupations, power to regulate.....	67
clothing of employees, regulation.....	57
construction, equipment, maintenance and exits, rules and regulations.....	50
dressing or emergency rooms, rules and regulations.....	64
elevators and holstways, safety regulations.....	45
fire alarm signals, prescription of number and location.....	59
fire doors, rules for construction.....	55
fire preventive constructions, regulation.....	57
inspection and regulation.....	25
labor camps, sanitation.....	72
lighting, rules and regulations.....	59
machinery, safety regulations.....	58
minors under eighteen, regulation of occupations.....	67
occupants, regulation of number.....	53
posting of rules.....	72
rest day, one in seven, power to make exceptions.....	14
rules, enforcement	28
seats for female employees, regulation.....	17
stairways in existing buildings, regulation.....	47
ventilation, temperature and humidity, standards and rules.....	62
water-closets, rules and regulations.....	64
wet-grinding wheels, exceptions relative to protective devices.....	58
wood-working machinery, exceptions relative to dust devices.....	58
foundries, milling processes, regulation.....	71
smoke, steam and gases, rules for removal.....	71
industrial hygiene division's recommendations.....	30
jurisdiction in general.....	25
meetings and minutes.....	25
members, appointment, term and salaries.....	24
mercantile establishments, inspection and regulation.....	25
rest day, one in seven, power to make exceptions.....	14
rules, enforcement	30
ventilation, temperature and humidity, rules and standards.....	112
water-closets, rules	111
mines, tunnels and quarries, regulation.....	84
rules and regulations.....	20, 25
non-compliance with, or violation of, penalty.....	171
posting	72, 113
secretary, appointment and salary.....	24
Industrial code, penalty for violation or non-compliance.....	26, 171
text	128
Industrial directory division of department of labor.....	31
Industrial disputes	284
bribery of labor organization representatives.....	283
employment offices to advise applicants, refusal of work.....	34
local arbitrators	97
mediation and arbitration bureau, provisions governing.....	96

340 * REPORT OF THE COMMISSIONER OF LABOR, 1914

	PAGE
Industrial education	261
truant schools	177
Industrial hygiene division of department of labor.....	30
Industrial poisonings (see Poisonous occupations).	
Industries and immigration bureau, provisions governing.....	98
Infectious diseases (see Communicable diseases).	
Inflammable materials, factories, stairway precautions.....	128
mines, tunnels and quarries, storage.....	85, 92
Information, employers and others to furnish.....	32
statistics and, bureau of department of labor.....	31
labor market bulletin.....	35
Injunctions, mattresses, etc., illegal manufacture and sale.....	71
union labels, illegal use.....	17
Injuries (see Accidents).	
Inspections, admission of commissioner of labor and subordinates.....	19, 32
alien labor conditions.....	99
bakeries	80
bureau of department of labor, provisions governing.....	26
contract labor agencies.....	99
employment agencies, private.....	99, 295
cities of three hundred thousand or more.....	298
factories, commissioner of labor's duties.....	66
districts and sub-districts.....	27
division of factory inspection in department of labor.....	27
homework inspection	27
elevators and hoistways.....	156
industrial board's powers.....	25
labor camps	72
municipal officers' duties.....	51
immigrant lodging places.....	99
industrial board's powers.....	25
labor camps	99, 133
factory living quarters.....	72
mattresses, etc., places of manufacture and sale.....	70
mercantile establishments	113
districts	29
division of department of labor.....	27
industrial board's powers.....	25
mines, tunnels and quarries.....	84, 90, 93, 94
hoisting appliances	85, 91
personal loan companies and brokers.....	222
public service commission's powers.....	259
railroads, hours of labor, enforcement.....	12
locomotive boilers	247
scaffolding and other building contrivances.....	18
penalty for hindering.....	171
steam boilers, mines and tunnels.....	85
mines and quarries.....	90
New York city.....	275
tenement houses	73
division of inspection in department of labor.....	29
workrooms or apartments, local health authorities.....	77
workmen's compensation commission, powers.....	209, 210
Insurance of employees (see also Workmen's compensation).	
mercantile establishments, compulsory contributions forbidden.....	21
private funds	118
state fund, article specially governing.....	204
Intimidation, industrial disputes, law relative to.....	284, 285
penalty	286
voting of employees.....	215

	PAGE
Intoxicants, calisson work, use as a bar to employment.....	88
common carriers not to employ persons using.....	254
employment agencies not to be conducted in places of sale.....	292
not to place applicants in places of sale.....	297
mines, tunnels and quarries not to employ persons using.....	92, 94
steam boiler engineers, use a bar to license.....	277
street railways not to employ persons using.....	253
vessels in New York harbor, supply to sailors prohibited.....	300
Intoxication, railroad or steamboat employees, penalty.....	254
workmen's compensation debarred by.....	195, 190
evidence	195
Investigations of economic and social conditions, division of.....	31
Jointers to be equipped with guards.....	57
Juveniles (see also Children under sixteen; Minors over sixteen).	
delinquency, newspapers, etc., illegal street sales.....	124
contributory delinquency of adults.....	124
employment offices, public, departments and activities.....	34
Keys on machinery to be countersunk or covered.....	57
Kitchens and dining rooms, cannery labor camps.....	130
Labels (see also "Tagging"; "Unclean labels"):	
bakeries, prohibited practices.....	139
convict-made goods	114
labor unions, protection	17
mattresses	70, 169
tenement house materials, factory addresses.....	76
Labor camps, cannery living quarters, sanitation.....	129
communicable diseases, report of cases.....	134
factory living quarters, inspection and sanitation.....	72
inspection	99
public works, temporary school districts for.....	268
sanitary code regulations.....	133
Labor law penalties (see Penalties).	
Labor market, bulletin of department of labor.....	35
Labor organizations, badges or buttons, unauthorized use.....	282
bribery of representatives.....	283
employers' power to forbid membership in.....	283
fraudulent representatives of.....	282
halls, temples or other buildings, construction.....	280
incorporation	279
benevolent purposes	280
labels, brands, marks, etc., protection.....	17
libraries, collection and maintenance.....	280
national guardsmen, not to discriminate against.....	282
suits by or against.....	279
Labor statistics, general, division of.....	31
Ladders, building work, safety requirements, inspection.....	18
calisson shafts, required.....	89
mines and quarries.....	91
Laundries, special regulations concerning.....	66
Laws (see Posting of laws, rules and regulations).	
Lead poisoning (see Poisonous occupations).	
Lectures for working people in New York city, free.....	269
Legal and political rights and privileges of employees.....	215
Legal day's work, eight hours to constitute.....	9
Liability, injuries to employees, constitutional provisions.....	185, 212
criminal liability	212
railroad corporations	211
wage debts, railroads, contractor's employees.....	224
stockholders of corporation.....	223
Libraries, labor organizations may incorporate for.....	280

342 * REPORT OF THE COMMISSIONER OF LABOR, 1914

	PAGE
Licenses, boarding houses for sailors.....	299
chauffeurs	271
convict-made goods, sellers of.....	113
dangerous trades, industrial board's powers.....	72
employment agencies, private.....	290
engineers, steam boilers in New York city.....	276
vessels	271
firemen, steam boilers in New York city.....	276
immigrant lodging places.....	101
industrial board's power to require.....	72
masters of vessels.....	271
moving-picture machine operators.....	278
pilots	271
sailors' boarding houses.....	299
tenement houses	73
"Life and limb" law.....	18
penalty for violations.....	171
Lighting, bakeries, cellar bakeries.....	82
dressing rooms	137
caisson works	89, 90, 95
factories, dressing or emergency rooms.....	64
elevator, cars	153
openings	45
exits	50
fire-escape passageways of existing buildings.....	49
fireproof exterior stairways.....	55
gas jets or lights, fire protection.....	61
halls	58
machinery in motion.....	58
passageways	58
stairways	46, 58
washrooms	63
water-closets	65
workrooms	59
foundries	71
mercantile establishments, basements.....	112
dressing rooms	110
washrooms	110
water-closets	111
tenant-factories	68
tenement houses	75
Limitation of actions, death damages.....	212
workmen's compensation	196
minors and incompetent persons.....	210
Liquor (see Intoxicants; Intoxication).	
Living quarters (see Labor camps).	
Loans, assignment of wages on.....	218
municipal employees	229
personal loan companies and brokers, regulations.....	221
personal loan companies and brokers, provisions governing.....	220
usurious, tools, furniture, etc., as security.....	218
personal loan companies and brokers, regulations.....	222
Lockers for employees, bakeries.....	80, 137
caissons	89
foundries	71
Lockouts and strikes (see Industrial disputes).	
Locomotives, boilers, inspection and safety.....	247
engineers, ability to read.....	253
Lodging places, employment agencies in connection with.....	292
immigrants, investigation	99
license and regulation.....	101
sailors, license and regulation.....	299

	PAGE
Lumber camps (see Labor camps).	
Lunches (see also Eating; Meals).	
factories, overtime workers.....	66
place of eating.....	66
mercantile establishments, overtime workers.....	104
prohibited places	66
rooms for, location.....	112
MACHINERY, children, prohibited operations.....	67
deaths caused by, criminal liability.....	212
fire alarm signal systems, shutting down by.....	142
lighting of moving parts.....	58
minors not to clean while in motion.....	67
safety and health regulations.....	57
women, prohibited operations.....	67
Magazine literature, street sales by children.....	122
Manufacturing establishments (see Factories).	
Married men's wages, assignment, wives' assent requisite.....	221
Married women's wages, assignment, husbands' assent requisite.....	221
right of action for.....	225
Masters of vessels, licenses and qualifications.....	271
Materials furnished for manufacture, penalty for conversion.....	213
Mattresses, illegal sales, penalty.....	71, 169
Meals, factories, time allowance.....	66
food not to be taken into poisonous workrooms.....	66
mercantile establishments, lunch rooms, location.....	112
time allowance	104
street railways and elevated railroads in cities 1st and 2d class, time allowance	11
penalty for violations.....	170, 171
utensils, common use prohibited.....	64
Mechanic arts, schools, establishment and support.....	264
Mechanics' tools, exempt from attachment.....	216
usurious loans on security of.....	218
personal loan companies and brokers.....	222
Mediation and arbitration, bureau of department of labor, provisions governing.	96
Medical examinations (see Physical examinations).	
Medical inspection, section of department of labor.....	30
Medical locks, caisson work, required.....	89
Medical practitioners, caisson work, attendance and duties.....	88
industrial poisonings, report of cases.....	32
Mercantile establishments in places of three thousand inhabitants or more....	103
child employees, age minimum.....	103
basement work	112
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work.....	103
registers to be kept, law enforcement.....	108
unlawful employment, penalty.....	175
childbirth, employment of women after.....	68
cleanliness of rooms, buildings and premises.....	109
definition of term mercantile establishment.....	8
drinking water, supply and receptacles.....	110
female employees, basement work.....	112
dressing rooms	110
minors, hours of work.....	104
food, handling by employees with communicable diseases forbidden.....	140
hours of work, child employees.....	103
female employees, minors.....	104
rest day, one in seven.....	13
industrial board, powers.....	25, 111, 113
rules, enforcement	30

344 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Mercantile establishments in places, etc. — Continued :	PAGE
inspection	113
districts	29
division of department of labor.....	29
industrial board's powers.....	25
inspectors, appointment, number and salaries.....	27
insurance, compulsory contributions from employees prohibited.....	21
law enforcing authorities.....	103, 113
lunch rooms, location.....	112
meals, food not to be taken into poisonous workrooms.....	66
time allowance	104
municipal ordinances, enforcement.....	30
posting (see main title Posting of laws, licenses, permits, rules, etc.).	
towels, common use prohibited.....	64
ventilation	112
washrooms and washing facilities.....	110
water-closets	111
Messengers, child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work	103
posting of laws and regulations.....	113
registers to be kept, law enforcement.....	108
unlawful employment, penalty.....	175
minors under twenty-one, night work prohibited.....	104
sending to disorderly houses or unlicensed drinking places, penalty.....	180
Milk industry, employees, exception from rest day provision.....	14
Mines, tunnels and quarries, abandonment notices.....	86
accidents, records and reports.....	86
caisson work	87, 95
children, employment prohibited.....	86
commissioner of labor's duties.....	84
enforcement of law, notices and court actions.....	90
inspection	84, 90, 93, 94
hoisting appliances	85, 91
new shafts, inclines or quarries, reports of opening.....	86
penalty for resisting inspection or failing to observe law.....	169
rules of commissioner of labor and industrial board.....	83, 90
safety requirements	84
washrooms	87
women, employment prohibited.....	86
Minors over sixteen (see also Children under sixteen) :	
apprenticeship	261
chauffeurs, minors under eighteen ineligible to license.....	272
factories, employment.....	37
certificates, penalty for false statements.....	171
prohibited employments	67, 156
hours of labor.....	42
industrial board may regulate occupations.....	67
industrial training in public schools.....	284
mercantile establishments, female employees, hours of work.....	104
messengers, night work prohibited.....	104
motor boats, minors under eighteen not to operate.....	271
moving-picture machines, not to operate.....	274
New York city.....	274
schooling (see main title Schooling of minor employees).	
steam boilers, New York city, not to operate.....	276
steam vessels, licenses as masters, pilots or engineers, ineligible.....	271
street railway conductors, motormen, etc., disqualified.....	253
telegraph operators, dispatch of trains, age and experience minimum.....	253
wages, payment	181
workmen's compensation, limitation of actions.....	210
wages as basis.....	191

	PAGE
Motormen of street railways, qualifications.....	258
Moving-picture machine operators, licenses and qualifications.....	273
Municipal corporations, contracts, subletting.....	236
employees, hours of work, contracts.....	9
penalty for violations.....	170
laborers, civil service requirements.....	229
legislature's powers.....	227
preference of New York citizens, aliens prohibited.....	16
prosecutions.....	21
vacations.....	184
violations of labor law by, penalty.....	11
voting hours.....	215
wages, assignment.....	229
workmen's compensation law applicable to.....	188
pension benefits.....	197
factories, building ordinances and inspections.....	51
ordinances, enforcement.....	28
mercantile establishment ordinances, enforcement.....	30
officers, violations of labor law by, penalty.....	11
NATIONAL GUARDSMEN, labor organizations not to discriminate against....	282
employers not to discriminate against.....	286
Negligence, civil liability for.....	116, 190, 197, 198
contributory negligence.....	190
criminal liability for.....	212
fellow servant doctrine.....	116, 190
railroad accidents.....	211
New York city (see also Municipal corporations):	
American Museum of Safety.....	82
barbering on Sunday, hours.....	184
elevated railroads, misconduct of employees on.....	254
employment agencies, inspection.....	298
factories, fire alarm systems and drills.....	60, 141
lectures, free, for working people.....	269
moving-picture machines, operators, licenses and qualifications.....	274
penal institutions, employment of prisoners.....	244
reservoir construction, eight hour day.....	237
sailors' boarding houses, license and regulation.....	299
steam boilers, inspection and testing.....	275
steam engineers and firemen, licenses.....	276
street cleaning department, relief and pension fund.....	231
wages of employees.....	230
street surface cars, enclosure of platforms.....	262
vacations of employees.....	184
wages, collection by municipal court actions.....	222
fees prohibited.....	224
Newspapers, carrying and distributing, male children over twelve.....	104
street sales by children.....	122
Night work, factories, children under sixteen.....	42
female minors under twenty-one.....	42
male minors under eighteen.....	42
women.....	68
mercantile establishments, children under sixteen.....	103
female employees over sixteen.....	104
messenger service, minors under twenty-one in cities 1st or 2d class.....	104
street trades, boys under fourteen.....	124
Nine hour law, factories, minors and women.....	42
mercantile establishments, female employees over sixteen.....	104
Notaries public, fraud or deceit by.....	99
Notices (see Posting of laws, licenses, permits, rules, etc.).	
Nurses, caisson work, required.....	89
labor or other camps, reports of communicable diseases.....	134

346 * REPORT OF THE COMMISSIONER OF LABOR, 1914

	PAGE
OATHS, administration by commissioner of labor and subordinates.....	23, 32
comptroller, convict-made goods.....	114
industrial board and secretary.....	25
workmen's compensation commission and subordinates.....	201
Obscene writing or marking prohibited, factory water-closets.....	95
mercantile establishments, water-closets.....	111
Occupants, bakeries, defined.....	79
responsibility	80
cannery living quarters, responsibility.....	132
factories, number	51
responsibility	62
tenant-factories, responsibility	69
tenement houses, summary dispossession.....	78
Occupational diseases (see also Anthrax, Bends, Poisonous occupations).	
division of department of labor.....	31
poisonings, medical practitioners to report cases.....	32
Oils in mines, tunnels and quarries, storage.....	85, 92
One day's rest in seven, factories and mercantile establishments	13
Outlets of mines.....	84
Overtime	9
brickyards	11
factories, lunch interval.....	66
mercantile establishments, lunch interval	104
street railways and elevated railroads	11
telegraph and telephone operators under block system.....	12
Owners, bakeries, responsibility.....	80
term owner defined.....	79
cannery living quarters, responsibility.....	132
factory buildings, responsibility.....	66
labor camps, responsibility.....	133, 135
tenant-factories, responsibility	69
term owner defined.....	69
tenement houses, responsibility, unlawful manufacturing.....	78
PANS AND VATS, factories, covers and railings.....	57
Partitions, bakeries, dressing rooms.....	137
cannery living quarters, construction.....	129
factories, buildings of fireproof construction	46
construction, fireproof partitions defined.....	55, 137, 159
tests	164
dressing rooms	64
stairways	47, 128, 159
water-closets compartments	65
foundries employing women.....	68
mercantile establishments, dressing rooms.....	110
water-closets	111
Part-time schools (see Continuation schools).	
Passageways, caisson work, lighting.....	89
factories, doors not to obstruct.....	50
elevators to outsides of buildings.....	153
lighting	58
stairways	128
unobstructed widths	50
foundries, obstruction prohibited, width.....	71
Pasters (see Labels).	
Peace officers, special, to be citizens resident in county.....	288
Penalties:	
accidents, employers' failure to report under workmen's compensation law.	209
admission of commissioner of labor and subordinates, refusal.....	32
alien labor, employment on public works.....	16
animals, negligence in management causing death.....	212
anthrax, failure of medical practitioners to report cases.....	32

Penalties — Continued :

	PAGE
"anti-Pinkerton" act, violation.....	268
apprentices, law violations.....	263
taking without guardians' consent.....	181
arrests without lawful authority.....	288
attendance officers, interference with, or refusal to exhibit papers to.....	177
bakeries, sanitary certificates, revocation.....	81
barbering on Sunday.....	184
block system on railroads, violation of hours.....	12
bribery, employees, agents or servants.....	213
brickyards, hours of work, violations.....	170
building work, floors, failure to complete as construction progresses.....	171
caisson work, violations of requirements.....	90
canneries, women employees, violation of rules.....	128
cash payment of wages, failure to make.....	15, 170
children, endangering life, health or morals.....	178
prohibited employments, theatrical and other.....	179
school requirements, violation by employers.....	176
coercion.....	266
commissioner of labor, inspections, refusal of admission.....	82
orders, violation or non-compliance.....	171
common carriers, intemperate persons, employment.....	254
company stores, operation by public contractors.....	15, 170
compressed air illness, failure of medical practitioners to report cases....	32
conspiracies.....	285
conversion of materials furnished for manufacture.....	218
convict-made goods, illegal sale.....	115, 169
department of labor, information to, refusal or falsehood.....	32
disorderly conduct on public conveyances.....	287
drug stores, hours and sleeping apartments, violation of provisions.....	182
elevated railroads, cities of more than one hundred thousand inhabitants, hour violations.....	170
train service, misconduct of employees.....	254
employment agencies, private, books and records, failure to keep.....	101
false statements.....	299
fee limitations, violation.....	296
law violations in general.....	299
license, doing business without.....	291
registry with department of labor, neglect.....	101
sending applicants to prohibited places.....	298
employment, certificates of children, false statements.....	171
false statements to persons furnishing or seeking.....	299
employment offices, public, persons connected with, acceptance of fees, etc.....	35, 171
endangering life or property.....	287
by refusal to labor.....	286
engineers of vessels, acting without licenses.....	271
extortion.....	286
factories, safety requirements of commissioner of labor, non-compliance...	66
ventilation, non-compliance with orders.....	62
female applicants for employment, physical examination by male physicians.	21
immigrants, lodging places, violation of law.....	102
industrial board's rules, violation or non-compliance.....	171
industrial code, violation or non-compliance.....	171
intimidation.....	285, 286
intoxication of railroad or steamboat employees.....	254
labor law in general, violation or non-compliance.....	171
labor organizations, badges, unauthorized use.....	282
bribery of representatives.....	283
fraudulent representation of.....	282
membership in, prohibition by employer.....	283

348 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Penalties — Continued :	PAGE
“ life and limb ” law, violations.....	171
loans, usurious, on security of tools, furniture, etc.....	218, 222
machinery, negligence causing death.....	212
masters of vessels, acting without licenses.....	271
mattresses, illegal sales	169
mercantile establishments, child employees, false statements concerning...	109
insurance, compulsory contributions from employees.....	22
messengers, sending to disorderly houses or unlicensed drinking places....	180
mines, tunnels and quarries, resistance to inspection and non-compliance..	169
moving-picture machines, law violations relative to operators.....	274
New York city	274
national guardsmen, discrimination against, employers.....	286
labor organizations	282
negligence causing death	212
newspapers, etc., illegal street sales by children.....	124
contributory delinquency of adults	124
peace officers, special, citizenship and residence requirements, violation..	268
personal loan companies and brokers, interest or charges, collection of	
illegal	222
usurious loans on tools, furniture, etc.....	222
pharmacies, hours and sleeping apartments, violation of provisions.....	182
pilots, acting without licenses.....	271
poisonings, industrial, failure of medical practitioners to report.....	32
policemen on railroads or steamboats, unauthorized action as.....	256
public decency, openly outraging	287
public work, hour restrictions, violation by contractors.....	170
labor regulations, non-observance.....	16
railroads, air-brakes, freight trains, failure to provide.....	251
passenger cars, failure to provide.....	247
bridge signals for employees on top of cars, failure to provide.....	247
caboose car and “ coal jimmie ” requirements, violation.....	250, 251
couplers, automatic, failure to equip freight cars with.....	247, 251
employees, endangering of human life or safety by.....	254
engineers unable to read, employment.....	253
“ full crew ” law, violation	252
guard posts at bridges, failure to provide.....	251
intemperate persons, employment	254
locomotives, boilers, inspection and safety requirements, violation....	248
brake system appliances, failure to provide.....	251
rest period, violations	170
switches, safety construction, failure to use.....	247
telegraph operators, age and experience minimums, violation.....	253
train orders, employees receiving and transmitting, violation of hours..	12
uniforms, incitement not to use and unauthorized use.....	255
sailors' boarding houses, violation of provisions regulating.....	301
scaffolding, safety requirements, violation.....	171
school attendance, cities or districts, failure to enforce.....	178
parental duty, failure to perform.....	174
state officers and employees, violations of labor law.....	11
steam boilers, engineers' licenses, law violations.....	278
negligence of persons in charge.....	212
steamboats, intemperate persons, employment.....	254
street railways, cities of more than one hundred thousand inhabitants,	
hour violations	170
conductors, motormen, etc., not qualified, employment.....	254
platform of cars, failure to enclose.....	252
subpoenas, workmen's compensation commission, failure to obey.....	208
tenant-factories, lessee or tenants' refusal to admit owner.....	69
tenement houses, revocation of licenses.....	74
union labels, illegal use.....	17
voting privileges of employees, infringement.....	215

Penalties — Continued :	PAGE
wages, assignment regulations, violation.....	219
corporation or joint-stock association, non-observance of law.....	15
workmen's compensation insurance, deductions from wages or salaries of	
employees	197
disclosure of information	209
employers' failure to insure	198
false statements to obtain benefits.....	210
payrolls, falsification	208
subpoenas of commission, failure to obey.....	203
wilful misrepresentation	209
Pension fund, New York city street cleaners.....	231
Periodicals, street sales by children.....	122
Permits, bakeries, operation in cellars.....	83, 140
canneries, living quarters, sleeping in rooms more than two floors above	
ground	131
women employees overtime work	128
dressmaker shops in tenement houses.....	75
factories, hours of work, dispensation with posting.....	43
noon-day meal interval, shorter time.....	66
tenement house manufacturing	78
labor camps, establishment	133
mercantile establishments, lunch rooms, location.....	112
noonday meal interval, shorter time.....	104
newspapers, distribution by male children.....	104
street trades, employment of children.....	123
tenement houses, manufacture of certain articles.....	77
Personal loan companies and brokers, provisions governing.....	220
Pharmacy apprentices and employees, hours and sleeping apartments.....	182
Physical examinations, bakery employees	80, 140
calisson workers	88
compensation of injured employees, determination.....	194
rules	202
factories, child employees	30, 41
female employees, physicians of own sex.....	21
industrial board's power to require.....	72
mercantile establishments, children's ages, determination.....	107
Physicians (see Medical practitioners).	
Picketing, judicial decisions relative to.....	284
Pilots, licenses and qualifications.....	271
"Pinkerton Act, Anti-"	288
Placards (see Labels; "Tagging"; "Unclean" labels).	
Planers, hoods, coverings and guards.....	57
Platforms of street cars, enclosure.....	252
Plumbing and drainage, bakeries.....	79
cannery living quarters	131
factory buildings	61
labor camps	134
mercantile establishments	110
tenant-factories	69
tenement houses	74
Poisonous occupations, children not to work at.....	67
food not to be taken into workrooms.....	66
medical practitioners to report cases of poisoning.....	32
occupational diseases, division of department of labor.....	31
suction devices for removal of fumes, etc.....	62
washing facilities	63
Policemen, "Anti-Pinkerton" act.....	288
railroad and steamboat employees as.....	256
Pollabing wheels, equipment with hoods, pipes and fans.....	58
minors and women not to operate.....	67
Political and legal rights and privileges of employees.....	215

350 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Posters (see Labels).	PAGE
Posting of laws, licenses, permits, rules, etc.:	
bakeries, sanitary certificates.....	81
sanitary regulations	138
convict-made goods, licenses to sell.....	114
employment agencies, private, law requirements.....	297
licenses	291
employment offices, public, lists of vacancies.....	35
factories, eating in poisonous workrooms, prohibition.....	66
elevators, carrying capacity	156
fire drill regulations	60
fire escapes, signs against exit to certain.....	149
hours of children, minors and women.....	42
industrial board's rules.....	72
labor law provisions	72
meals, permits for shorter time than sixty minutes.....	66
occupants, number permitted to each floor.....	53
rest day schedules	14
smoking prohibition notices.....	61
immigrant lodging places, rates of charges.....	102
labor camps, sanitary regulations.....	133, 134
mercantile establishments, eating in poisonous workrooms, prohibition..	66
laws and regulations in general.....	113
meal hours, permits for shorter time.....	104
rest day schedules	14
mines and quarries, labor law and rules.....	92
moving-picture machines, licenses of operators.....	273
New York city	274
railroad locomotive cabs, boiler inspection certificates.....	248
tunnel entrances, labor law and rules.....	95
vessels, licenses of masters, pilots and engineers.....	271
workmen's compensation, notice of compliance with law.....	198
Powder (see Explosives).	
Printing and publication, division of department of labor, provisions governing	31
factories holding permits for tenement manufacturing, lists.....	78
industrial board's rules	26
industrial directory	81
industrial hygiene leaflets and bulletins.....	80
labor market bulletin	85
prisons, penitentiaries and reformatories, restriction.....	240
tenement houses holding licenses, lists.....	78
Prisons, employees, maximum salaries	228
labor of prisoners	238
Private banking, law enforcement.....	99
Privies (see Water closets).	
Prostitution, employment agencies not to send female applicants to places of.	297
Public buildings department, employees, hours during legislative sessions..	10
Public employment offices, establishment by commissioner of labor.....	33
Public safety (see Safety headings).	
Public service commissions, accidents, investigation.....	251
complaints to	259
Public work:	
alien labor, prohibited	16
prosecutions	21
canal wages, bonds of contractors for payment.....	237
minimum rate	9
company stores, illegal	15
penalty for violations	170
hours of work, contracts.....	9
penalty for violations	170
labor camps, temporary school districts.....	268
legislature's powers relative to employees.....	227

Public work — Continued :	PAGE
municipalities, contracts, transfer or subletting.....	236
laborers, civil service requirements.....	229
preference to citizens of New York.....	16
prosecutions	21
state buildings or plants, inmate or outside labor.....	228
state employees, laborers exempt from civil service.....	227
prison employees, wages.....	228
semi-monthly payment	227
wages, prevailing rate	9
Publications (see Printing and publication).	
Pulleys, building work, safety requirements, inspection.....	18
factories, safety regulations	57
QUARRIES (see Mines, tunnels and quarries).	
RAILROADS (see also Elevated railroads; Street railways; Subway railroads) :	
accidents, report to public service commissions.....	251
air-brakes, freight trains	250
passenger cars	247
badges, passenger train and station employees to wear.....	255
ball for employees in cases of accident.....	256
bridges, signals to employees on top of cars.....	247
caboose cars, requirements	250
"coal jimmies" prohibited	250
couplers, automatic, on freight cars.....	247, 250, 251
disorderly conduct on cars, penalty.....	287
endangering human life of safety, employees' responsibility.....	254
engineers on locomotives, ability to read.....	253
free transportation of employees	257
"full crew" for freight trains.....	251
guard posts at bridges	251
hours of work	11
penalty for violations	170
telegraph and telephone operators under block system.....	12
train orders, employees receiving and transmitting.....	12
intoxicants, employment of persons using, prohibited.....	254
intoxication of employees, penalty	254
labor camps, sanitation.....	99, 133
liability, injuries to employees.....	211
wages of contractors' employees.....	224
locomotives, boilers, inspection, safety requirements.....	247
brake system, operation	249
policemen, appointment of employees as.....	255
public service commissions' powers relative to.....	259
signals warning employees on top of cars.....	247
switches, safety requirements	247
telegraph operators, dispatch of trains, age and experience minimum....	253
hours of work under block system.....	12
unclaimed property found in cars, disposition.....	257
uniforms of employees	255
wages, assignment by employees.....	16
contractors' employees, liability for.....	224
payment, law violations, indictments.....	170
semi-monthly requirement	15
Receivers, employees' wages preferred claims, when.....	14
Receptacles, bakeries, coal, ashes and refuse.....	80, 137
finished products	139
cannery living quarters	132
factories, drinking water	63
waste and rubbish, cleanliness	61
fireproof requirements	60
labor camps	134
mercantile establishments, drinking water, covering and cleansing.....	110
waste and refuse	110

352 * REPORT OF THE COMMISSIONER OF LABOR, 1914

	- PAGE
Records of department of labor, destruction after six years.....	24
Refuse (see Receptacles; Waste).	
Registers, employment agencies	293
factories, child employees	40
mercantile establishments, child employees.....	108
municipal labor class, applicants for employment.....	229
tenement houses, persons to whom materials are given.....	75
Registration, employment agencies	100
factories	36
Repeal schedule, original labor laws.....	125
Reports, commissioner of labor	24
industrial hygiene	30
mediation and arbitration bureau	97
mine, tunnel and quarry statistics.....	84
public employment offices	34
Rest periods for employees, calson work.....	87
canneries, women employees	128
drug stores and pharmacies	182
factories, children, minors and women, six day limit.....	42
one day in seven.....	13
Sunday labor and traffic.....	13
women at night	68
mercantile establishments, children and female employees, six day limit..	103
one day in seven	13
Sunday labor and traffic.....	13
railroad employees moving trains	12
Sunday labor and traffic, factories and mercantile establishments.....	13
industries and occupations in general.....	183
Restaurants, child employees, age minimum.....	105
employment certificates, provisions governing	106
penalty for false statements.....	171
hours of work	103
posting of laws and regulations.....	113
registers to be kept, law enforcement.....	108
unlawful employment, penalty	175
communicable diseases, employees to be free from.....	140
towels, common use prohibited	64
waitresses, seats required	17
Rights of employees, political and legal.....	215
"right to strike"	215
Roofs of factories, fire-resisting construction	156, 161
Rules and regulations (see Industrial board).	
SAFETY, American Museum of.....	32
Safety requirements, constitutional powers of legislature.....	185
public work	227
endangering life or property, penalty.....	287
refusal to labor	286
factories	44, 128, 141
removal of safeguards	58
flooring of buildings, completion as structures rise.....	19
penalty for violations.....	171
industrial board's powers.....	20, 25
mines, tunnels and quarries	84
railroads	247
scaffolding	18
penalty for violations	171
Sailors' boarding houses, employment agencies in connection with.....	292
license and regulation	299
Salaries and expenses of department of labor.....	22
payment methods	23
Saloons (see Intoxicants; Intoxication).	

Sanitation :	PAGE
bakeries	79
industrial board's powers, sanitary code.....	83
text of code.....	135
sanitary certificates required.....	81
canneries, living quarters	129
women employees, floor platforms or drains.....	128
factories	61
industrial board may make rules.....	25
industrial hygiene division of department of labor.....	30
labor camps	72, 99
laundries	66
mercantile establishments	110
tenement houses	73
Saratoga Springs, Sunday barbering, season and hours.....	184
Saturday half-holiday, hours	183
Saws, guards for	57
Scaffolding, inspection in cities	18
safety requirements	18
penalty for violations	171
Schooling of minor employees :	
aliens, industries and immigration bureau to co-operate with school author- ities	98
apprenticeship requirements	262
compulsory education	172
employment offices, public co-operation with school principals.....	34
factories, record certificates	38
industrial training in public schools.....	264
labor camps, public works, temporary school districts for.....	268
mercantile establishments, school record certificates.....	106, 108
newspapers, distribution, permits to male children	104
street sales by children, permits and badges.....	123
record certificates, factories	38
mercantile establishments, etc.....	106, 108
Screens, bakery openings	80, 137
caisson work	96
cannery labor camps, water-closets.....	130, 131
windows	130
factory water-closets	65
labor camps, privies	134
mercantile establishments, water-closets.....	111
Seamen's boarding houses, employment agencies in connection with	292
license and regulation	299
Seats, female employees, canneries.....	128
factories	17, 67
dressing rooms	64
hotel and restaurant waitresses.....	17
mercantile establishments	112
dressing rooms	110
male employees, caisson work.....	89
Semi-monthly payment of wages, railroad employees.....	15
state employees	227
Servants, bribery	213
hours of work	9
workmen's compensation law not applicable to.....	188
Set screws on machinery to be countersunk or covered.....	57
Shafting revolving within seven feet of floor, protection.....	57
Shafts (see Elevators; Holstways).	
Shoe-polishing establishments, child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work	103

354 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Shoe polishing establishments, child employees — Continued :	PAGE
posting of laws and regulations.....	113
registers to be kept, law enforcement.....	108
unlawful employment, penalty	175
Shops on ground floor of tenements.....	76
Signal systems, factories	59, 141
mines and quarries	91
tunnels	95
Signalmen and others receiving and transmitting train orders, hours.....	12
Signals, railroads, warning employees on top of cars.....	247
Signs (see Posting; "Tagging").	
Sinks (see Washrooms and washing facilities).	
Sixty-six hour rule, canneries, women employees.....	128
Skylights, factory elevator shafts	46
Sleeping in bakeries	80, 137
cannery, living quarters, air space	129
rooms, location and occupants	131
drug stores and pharmacies.....	182
laundries	66
tenement work rooms	75, 77
Smoking prohibition, bakeries	80
calsson work	95
factories	61
mines, tunnels and quarries, explosives, storage and handling.....	93
Special investigations of economic and social conditions, division of.....	31
Spitting on floors, etc., of factories, prohibited.....	61, 138
Sprinklers, automatic, in factories.....	53, 60
Stables or other animal shelters (see Animals).	
Stairways of factories, buildings over one hundred feet high, requirements..	46
combustible materials not to be stored about.....	128
construction	46, 50, 128, 159
existing buildings	47
exterior screened stairways defined.....	56
fireproof exterior enclosed stairways defined.....	55
hand-rails required	50
lighting	46
State employees (see also Public work) :	
armories, wages and vacations.....	228
canal wages, bond of contractor for payment.....	237
minimum rate	9
labor law, penalty for violations.....	11
prisons, wages	228
state institutions, hours of work.....	10
vacations	184
workmen's compensation law applicable to.....	188
pension benefits	197
Statistics and information, agricultural labor, collection and dissemination...	246
bureau of department of labor.....	31
labor market bulletin	35
destruction after six years.....	24
penalty for refusal to furnish.....	32
Steam boilers, criminal negligence of persons in charge.....	212
mines, tunnels and quarries, inspection and regulation.....	85, 90
New York city, engineers' and firemen's licenses and qualifications.....	276
inspection	276
railroad locomotives, inspection and safety requirements.....	247
Steam vessels, licenses of masters, pilots and engineers.....	271
Steamboats, criminal negligence of persons in charge of.....	212
disorderly conduct on, penalty.....	287
free transportation of employees.....	257
intoxicants, employment of persons using, prohibited.....	254
intoxication of employees, penalty.....	254
policemen, appointment of employees as.....	255

	PAGE
Steamships, sailors' boarding house agents, restrictions.....	299
Stockholders' liability for wage debts of corporation.....	223
Storage, bakery rooms, sanitation.....	79, 137, 139
mines, tunnels and quarries, explosives.....	85, 92, 93, 94
Store money-orders, illegal	15
penalty for violations.....	170
Stores (see Mercantile establishments).	
Street cleaners of New York city, relief and pension fund.....	231
wages	230
Street railways (see also Elevated railroads; Railroads: Subway railroads):	
accidents, report to public service commissions.....	251
conductors, motormen, etc., qualifications.....	253
disorderly or offensive acts or language on cars.....	287
hours of work, cities 1st and 2d class.....	11
penalty for violations.....	170
platforms of cars, enclosure.....	252
public service commission's powers relative to.....	259
unclaimed property left in cars, disposition, benefit of employees.....	257
Street trades, employment of children in.....	122
Strikes and lockouts (see Industrial disputes).	
Subletting of municipal contracts.....	236
Subpoenas, commissioner of labor and subordinates.....	100
industries and immigration bureau.....	100
mediation and arbitration board.....	97
public service commissions	259
workmen's compensation commission and subordinates.....	201, 203
Subway railroads, employees, hours of work.....	11
Suction devices, removal of impurities from workrooms.....	58, 62, 72
Sunday labor and traffic (see also Rest period for employees):	
factories	13
industries in general.....	183
mercantile establishments	13
Supervisor of personal loans, office created.....	220
Sweatshops (see Tenement houses).	
Switchboards, factory fire alarm systems, construction and equipment.....	146
rubber mats required on floors.....	20
Switches on railroads, safety requirements.....	247
"TAGGING" (see also Labels; "Unclean" labels):	
bakery ovens and utensils, no sanitary certificate.....	82
unclean conditions	81
convict-made goods	114
factories, articles exposed to contagion.....	69
dangerous machinery	57
mattresses, etc., unsanitary.....	70, 169
scaffolding dangerous to life or limb.....	18
tenement houses, articles unlawfully made in.....	76
definition of term tenement house.....	8
rooms or apartments in filthy condition.....	74
Teams for working and food, exemption from attachment.....	216
Telegraph corporations, child employees, age minimum.....	105
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work.....	103
posting of laws and regulations.....	113
registers to be kept, law enforcement.....	108
unlawful employment, penalty.....	175
Telegraph operators, dispatch of railroad trains, age and experience minimum..	253
hours under block system.....	12
Telephone operators, hours under block system.....	12
Temperature (see Heating).	
Tenant-factories, defined and regulated.....	68

356 * REPORT OF THE COMMISSIONER OF LABOR, 1914

	PAGE
Tenants' responsibility, bakeries.....	80
cannery living quarters.....	132
factories	62
tenant factories	69
Tenement houses, basements, manufacture in.....	75
children's clothing not to be manufactured in.....	77
communicable diseases, control.....	76
definition of term tenement house.....	8
dolls and dolls' clothing not to be manufactured in.....	77
employment agencies not to be conducted in living rooms.....	292
food not to be manufactured in.....	77
inspection	73, 77
division of department of labor.....	29
license requirements	73
manufacture in, certain articles, powers of health authorities.....	77
owner or agent's responsibility for unlawful manufacturing.....	78
owners, responsibility for unlawful use.....	78
permits to factories to give out articles.....	78
registers of persons to whom materials are given, factories to keep.....	75
tagging of unlawfully made articles.....	76
Testimony (see Evidence; Witnesses).	
Theaters, child employees, age minimum.....	106
employment certificates, provisions governing.....	106
penalty for false statements.....	171
hours of work.....	103
posting of laws and regulations.....	113
prohibited employments	179
registers to be kept, law enforcement.....	108
unlawful employment, penalty.....	176
employment agencies, contracts.....	294
license	294
Threats (see Coercion; Intimidation).	
Timbering of mines and tunnels.....	84, 91
Time (see Hours of Labor; Lunches; Meals; Rest Periods for Employees; Time-books).	
Time books, canneries, female employees.....	44
factories, employers to keep.....	14
female employees	43
mercantile establishments, employers to keep.....	14
Tobacco, use prohibited in bakeries.....	80, 138
Toilet rooms (see Waterclosets).	
Tools, deprivation of, penalty.....	286
exemption from attachment.....	216
usurious loans on security of.....	218
personal loan companies and brokers.....	222
Towels, common use prohibited.....	64
Trade schools, establishment and support.....	264
Trade unions (see Labor organizations).	
Trades, dangerous, industrial board to regulate.....	72
licenses	271
Trainmen as policemen.....	255
Transportation to and from foreign countries.....	99
Trapdoors, factory elevators.....	151, 152
underground workings	86
Traveling expenses in department of labor.....	23
Traveling ways in mines.....	86
Truant schools and attendance officers, provisions governing.....	176
"Truck" system, law prohibiting.....	15
Tunnels (see Mines, tunnels and quarries).	
Twelve-hour rule; Canneries, women employees.....	128

	PAGE
UNCLAIMED property found in public vehicles, disposition.....	257
"Unclean" label, bakeries.....	81
factories.....	69
tenement made articles.....	76
Uniforms of railroad employees.....	255
Unions or associations (see Labor organizations).	
Usurious loans (see Loans).	
VACATIONS of public employees.....	184
armories of state.....	228
Vats and pans in factories, covers and railings.....	57
Ventilation (see also Exhaust fans; Windows):	
bakeries.....	79, 80, 136, 137
cellar bakeries.....	82
caisson work, air chambers.....	95
dressing rooms and medical locks.....	89
cannery living quarters.....	129, 130, 131
factories.....	62
dressing rooms.....	64
washrooms.....	63
waterclosets.....	65
mercantile establishments.....	112
basements.....	112
dressing rooms.....	110
washrooms.....	110
mines.....	84
tenement houses.....	75
tunnels.....	84
Vermín, bakeries to be free from.....	80
rat proof maintenance.....	135
cannery living quarters to be free from.....	131
imported articles to be free from, powers of local health authorities....	77
laundries to be free from.....	66
tenement houses to be free from.....	74
Vessels in New York harbor, sailors' boarding house agents, restrictions.....	299
Violations of law (see Penalties).	
Vocational schools, establishment and support.....	264
Voting of employees, duress and intimidation.....	215
time allowance.....	215
WAGES:	
assignment.....	218
municipal employees.....	229
personal loan companies and brokers, regulation.....	221
railroad employees.....	16
cash payment by companies and public contractors.....	14
penalty for violations.....	170
convicts laborers.....	242
corporations to pay weekly.....	15
garnishment.....	216
state employees.....	228
married women's rights.....	225
minors, payment to.....	181
New York city, collection by municipal court actions.....	222
fees prohibited.....	224
street cleaning employees.....	230
preferred claims in assignment proceedings.....	223
prosecutions for law violations.....	21
public work.....	9
legislature's powers.....	227
railroads, liability to contractors' employees.....	224
semi-monthly payment required.....	15

358 * REPORT OF THE COMMISSIONER OF LABOR, 1914

Wages — Continued:	PAGE
receiverships, employees' wages preferred claims, when.....	14
state employees, armories.....	228
canals, bond of contractors.....	237
minimum rate	9
garnishment	228
prisons	228
semi-monthly payment required.....	227
stockholders' liability for.....	223
strikes for maintaining or advancing, judicial decisions relative to.....	284
law relative to.....	286, 287
voting, reduction on account of, prohibited.....	215
workmen's compensation, basis of.....	190, 191
payrolls, keeping and inspection.....	208, 210
defined relative to.....	189
Waiters, communicable disease a bar to employment.....	140
Waitresses, communicable diseases a bar to employment.....	140
seats required	17
Walls, bakeries	79, 136
factories, dressing rooms	64
fire walls defined.....	54
workrooms, cleanliness	61
mercantile establishments, cleanliness.....	109
Washrooms and washing facilities:	
bakeries	79, 136, 137
caisson work	89
factories	63
foundries	71
mercantile establishments	110
mines, tunnels and quarries.....	87
towels, common use prohibited.....	64
Waste, bakeries, ashes, sanitary regulations.....	138
receptacles	80, 137
canneries, labor camps.....	131, 132
factories, receptacles, cleanliness.....	61
fireproof requirements	60
removal from floors and buildings.....	60
labor camps, disposal.....	134
mercantile establishments, receptacles.....	110
water courses, pollution prohibited.....	133
Water gauges for steam boilers, mines and tunnels.....	85
railroad locomotives	248
Water supply, bakeries, cleansing purposes.....	79, 136, 137
caissons, dressing rooms	89
canneries, labor camps.....	131
cups, common use, prohibited.....	64
factories, drinking purposes.....	63
foundries	71
labor camps, distance from water's edge.....	133
water rules, posting and observance.....	134
mercantile establishments, drinking purposes.....	110
washing facilities	110
Waterclosets, bakeries	79
caisson dressing rooms.....	89
canneries, labor camps.....	130, 132
factories, dressing rooms separate.....	64
requirements	64
foundries	71
labor camps	133
mercantile establishments	111
tenant-factories	69
Weekly payment of wages by corporations.....	15